



CITY OF BURBANK
COMMUNITY DEVELOPMENT DEPARTMENT

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REQUEST FOR PROPOSALS

**SAN FERNANDO BOULEVARD / BURBANK BOULEVARD
INTERSECTION IMPROVEMENT PROJECT
PLANS SPECIFICATIONS AND ESTIMATES (PS&E)**

Proposals Due:

September 20, 2012

5 P.M.

CITY OF BURBANK

**Request for Proposals for
San Fernando Boulevard / Burbank Boulevard
Intersection Improvement Project
Project Specifications & Estimates (PS&E)**

I. PROJECT BACKGROUND

The City of Burbank requests proposals from qualified Consultants to conduct the following services: prepare Plans, Specifications and Engineer's Estimates (PS&E); coordinate with City staff in the preparation of the PS&E package; and provide bid support services for the San Fernando Boulevard / Burbank Boulevard Intersection Improvement Project.

The San Fernando Boulevard / Burbank Boulevard Intersection improvement is located in the City of Burbank approximately ½ mile north of Downtown Burbank and approximately 500 feet east of the Interstate 5 / Burbank Boulevard Interchange (see Attachment A). The project will flare the north and west legs of the intersection to provide additional vehicle turning movements and increase the operational efficiency of the intersection.

This project includes widening the intersection to provide for a second dedicated right turn lane to the southbound approach of San Fernando Boulevard at Burbank Boulevard for a total of two right turn lanes, one through lane, and one left turn lane in the southbound direction of this intersection. The improvement would also widen the west leg of the intersection to provide three westbound through lanes on Burbank Boulevard between San Fernando Boulevard and Interstate 5. The improvement would provide an expanded bus passenger waiting area for an existing Metro/BurbankBus stop on the north side of Burbank Boulevard west of San Fernando and various traffic signal, safety lighting, landscaping, and other improvements necessary to accommodate the new intersection geometry. The design will also accommodate future planned Class II bicycle lanes on San Fernando Boulevard and a Class II/Class III bicycle facility on Burbank Boulevard. As part of the improvement, approximately 10-15 on-street parking spaces on the east side of San Fernando Boulevard are expected to be removed to accommodate required intersection flaring. The improvement will be constructed substantially within existing City right of way, although two small property acquisitions are planned on the northwest corner of the intersection to accommodate a larger turn radius and expanded bus passenger waiting area. The general project area is depicted on Attachment B.

The California Department of Transportation (Caltrans) is constructing a major interchange improvement adjacent to this intersection improvement as part of the Interstate 5 High Occupancy Vehicle (HOV) / Empire Avenue Interchange Project. This project will reconfigure the Burbank Boulevard Interchange into a tight diamond configuration. The interchange improvement includes modifications of Burbank Boulevard just west of this project. As such, improvements for this project must interface with the adjacent Caltrans project. The Caltrans project is currently in advertisement, with construction expected to commence in early 2013. Work on the Burbank Boulevard interchange portion of the project is expected to begin in 2015.

A. Project Funding and Grant Funding Conditions

The full cost of this project is funded through the Metropolitan Transportation Authority (Metro) Measure R Arroyo Verdugo Highway Operations Improvements Project. This project is not funded with state or federal funding. Contracts reimbursed by Measure R funds must be administered in accordance with Generally Accepted Accounting Principles (GAAP), and Consultant shall administer all work under this project in compliance with Office of Management and Budget (OMB) Circular A-87 and/or Federal Acquisition Regulation (FAR) Subpart 31.

II. SCOPE OF WORK

A. Project Description

The Consultant's overall responsibility and scope of work is to prepare Plans, Specifications, and Engineers' Estimates for the project including costs. The Consultant shall provide engineering and professional services in accordance with any and all applicable local, state, and federal guidelines and laws, organized according to a logical sequential process to support all tasks. The Consultant shall also ensure that all local, state, and federal permit conditions and restrictions are translated into the final design. Within the project limits, the Consultant shall ensure that the Plans and Specifications shall comply with the federal Americans with Disabilities Act, (ADA) and California and Local Building Codes.

The proposal shall include a detailed Scope of Work with tasks and subtasks incorporating the items described below:

B. PS&E Development

This scope of work includes the preparation of Plans, Specifications, and Estimates -- including appropriate interim design drawings at the 30, 60, and 90 percent levels -- and a design/construction schedule for the Project. These plans will be based on a previously prepared conceptual layout plan. This plan is attached to this RFP as Attachment C.

The Consultant shall ensure that all plans and specifications comply, as appropriate, with the latest edition of Caltrans *Highway Design Manual*, Caltrans *Standard Specifications and Standard Special Provisions*, the *Standard Specifications for Public Works Construction (Green Book)*, Manual of Uniform Traffic Control Devices (MUTCD), and City of Burbank ordinances, standards, and other requirements. Any standard specifications of the City of Burbank, Engineering Division shall be incorporated by the Consultant as special provisions.

Task 1: Project Management

The City of Burbank shall be the lead agency for this project, and the designated City Project Manager will coordinate project management through the Planning and Transportation Division of the Community Development Department. Other City Departments and agencies will provide

necessary input on project design including City of Burbank Public Works staff, Burbank Water and Power staff (for utility work), and Caltrans (for coordination issues related to the interface between the project and the adjacent Caltrans project).

The Consultant shall be expected to interface both locally with City of Burbank staff and other affected agencies as necessary, as well as participating in discussions and presentations with the wider design team at periodic project milestones. In order to ensure a timely progression of the project from inception to final deliverable, the following activities should be anticipated once the notice-to-proceed (NTP) is authorized and as the Project progresses:

1) Project Kick-off Meeting

The Consultant shall schedule and conduct a project kick-off meeting within two weeks of Notice to Proceed (NTP) to discuss Project details (review conceptual layout), establish goals, review the Project schedule and coordinate efforts. City of Burbank staff will work in conjunction with the Consultant to derive a list of key stakeholder representatives (Project Development Team [PDT]) prior to the Project Kick-off Meeting. Once the stakeholders are identified, the Consultant shall contact all members of the PDT to coordinate the scheduled meeting date, location, and time. A meeting notice, agenda, and meeting minutes (noting all action items) shall be prepared by the Consultant for the kick-off meeting.

Deliverables: Meeting agenda and meeting notes with action item list - one (1) electronic file (Adobe PDF) copy and one (1) hardcopy for each meeting attendees.

2) PDT Meetings

The Consultant shall coordinate and attend PDT meetings with City of Burbank staff and stakeholder representatives as necessary at and in-between periodic project milestones as necessary. Meeting agendas for the planned meeting and summaries/notes from the previous meetings shall be prepared by the Consultant at each meeting and distributed to the Project Manager and other attendees. An Action Item list and a status of project deliverables shall be updated on an ongoing basis (monthly) and be made available for each PDT meeting.

Deliverables: Proposed meeting schedule, meeting agendas and meeting notes with action item list for each monthly PDT Meeting – one (1) electronic file (Adobe PDF) copy and one (1) hardcopy for each meeting attendee, for each monthly meeting for the Project duration.

3) Project Schedule

The Consultant shall, within two (2) weeks of NTP, provide a detailed project baseline schedule, indicating milestones, major activities, and deliverables, to the City of Burbank for review and comments (Microsoft Project or Microsoft Excel format preferred). The Consultant shall update the schedule as required and include with each PDT meeting package and monthly progress report.

Deliverables: One (1) hardcopy and one (1) electronic file (Adobe PDF) copy of each month's updated Project Schedule for the Project duration.

4) Monthly Progress Reports

The Consultant shall prepare brief progress reports to record ongoing progress on the Project to support invoices submitted to the City for payment. Reports shall include an explanation of tasks accomplished for the month, deliverables finished/submitted, anticipated tasks/progress for the next month, pending issues and schedule completion target dates (updated Project schedule).

Metro Measure R funding requirements require the completion of a Measure R Monthly Progress Report in a format provided by Metro. Consultant shall prepare a separate Monthly Progress Report and submit to the City along with the progress reports described above. This report will then be submitted by the City to Metro to satisfy its Measure R grant fund obligations.

All reporting, accounting, expenditure, and administration activities shall be in compliance with Office of Management and Budget (OMB) Circular A-87 and/or Federal Acquisition Regulation (FAR) Subpart 31 as required by Metro's Measure R Funding Agreement with the City of Burbank.

Deliverables: One (1) hardcopy and one (1) electronic file (Adobe PDF) copy of each month's Progress Report and Metro Measure R Monthly Progress Report including a monthly updated Project schedule for the Project duration.

5) Cost Accounting

The Consultant shall submit, in a format acceptable to the City, monthly invoices that: 1) indicates the total contract amount, 2) indicates all costs incurred for works for the period (actual and percentage), indicates costs incurred to date (actual and percentage), and estimates percentage of completion for each task. Invoices shall include the Purchase Order (PO), project, and invoice numbers. Charges for each of the individual tasks shall be listed separately.

Deliverables: One (1) hardcopy and one (1) electronic file (Adobe PDF) copy of each month's invoice.

6) Quality Control / Quality Assurance

The Consultant shall plan for and ensure Quality Control and Quality Assurance during the entire Project. The Consultant shall also ensure that all design calculations, deliverables, and other works are independently verified to ensure accuracy. Exhibits and plans should be checked, corrected, and back-checked for accuracy and completeness.

Deliverables: One (1) hardcopy and one (1) electronic file (Adobe PDF) copy of final Quality Control / Quality Assurance Plan.

7) Submittal of Project Deliverables and Formats

The project deliverables shall be submitted for review by the City of Burbank, utility companies, Caltrans (for coordination with the freeway project) and all other agencies having jurisdiction. All work products should be delivered in file or data formats compatible with City of Burbank systems. Submittal milestones for each bid package shall be as described below:

- 30% Plans, Specifications, & Estimates, and copies of all studies and calculations
- 60% Plans, Specifications, & Estimates, and copies of all studies and calculations
- 90% Plans, Specifications, & Estimates, and copies of all studies and calculations
- 100% Plans, Specifications, & Estimates, and copies of all studies and calculations
- Right-of-Way documentation
- Bid-ready Plans, Specifications, & Estimates
- Permits for Construction
- Resident Engineer's file

Initial submittals shall include all preliminary information needed by the City of Burbank's plan-check staff to accept a package for review. Underlying data should be provided in AutoCAD (latest version) format geo-referenced to appropriate projection and datum. The 30 percent, 60 percent, 90 percent design, and 100 percent design submittals should be provided in Adobe PDF and AutoCAD format.

Initial submittals of plans shall be hard (paper) copies. Final submittals shall incorporate responses to all stakeholders' comments. PS&E submittals shall conform to the requirements of the agency to which the packages are being submitted. Paper copies shall be submitted until the plans are approved. Right-of-way documentation submittal for project-required street dedications shall include survey information, an overall right-of-way map, preliminary title reports, plats and legal descriptions, deeds, easement documents, and "Right-of-Entry" forms. Final bid-ready plans shall be submitted on four (4) mil-thick 24" x 36" Mylar sheets with permanent images, and in electronic file (AutoCAD) format, in accordance with City of Burbank Standards, or standards of the agency having jurisdiction.

All final surveys, studies, calculations, designs, reports, maps, legal descriptions, plans, specifications, and estimates shall include all original documents with seals and signatures by registered professional land surveyors, engineers, or architects licensed in the State of California. Electronic files of all documents shall also be made available on a FTP site or other electronic distribution system. Electronic files for reports and summaries shall be submitted in Microsoft Word and Adobe PDF formats. Final electronic drawing files shall be submitted as AutoCAD drawings on disk. Electrostatic plots are not acceptable.

All data, information, documents, calculations, reports, plans, specifications, quantity take-offs, estimates, or any other item collected or prepared in either hard copy or electronic format as part

of the design of these projects are the property of the City of Burbank. The Consultant shall submit these items to the City at the completion of the Project. All original documents and electronic files shall become the sole property of the City, and may be used by the City and/or its assignees without written permission from or additional compensation to the Consultant.

Deliverables: Three (3) hardcopies and one (1) electronic file (Adobe PDF) copy, and one (1) electronic file copy in original file format of all final reports, studies, and design submittals shall be provided for each project milestone.

Note: Design submittals shall be submitted in full size 24" x 36"; for final bid-ready plans only one [1] hard-copy set is required in Mylar and one (1) electronic file (AutoCAD) and one (1) electronic file (Adobe PDF) copy.

Task 2: Data Collection and Analysis

1) Review of Existing Plans, Studies, and Other Relevant Documentation

The Consultant with the assistance of the City, shall assemble all available information and reports pertaining to the Project including a previously-designed conceptual layout, street-as-built drawings, traffic signal plans, utility information, aerial maps, survey and right-of-way data, Caltrans 100 percent plans (for the adjacent interchange project, available on the Caltrans website listed on Attachment D), and any additional pertinent information for the Project.

The Consultant shall provide a list of all other reports, plans, studies, documents and information that are needed for the design of the project. The City will provide copies of all records that are available at the City. For all other records needed for the design of the projects, the Consultant shall be responsible to research existing reports and obtain and review all Project-pertinent data needed to prepare a complete PS&E package.

Deliverables: Document list (matrix) of pertinent information required for the Project including documents that are available from the preliminary engineering phase and external project resources – one (1) hard-copy and one (1) electronic file (Adobe PDF) copy, and one (1) electronic file copy in original file format.

2) Field Surveys

The Consultant shall conduct a detailed field survey to review and record existing conditions in the Project study area to identify any unusual or special conditions that may affect the Project design or construction. This shall include inventory of existing facilities including but not limited to roadways, irrigation and flood control facilities, utilities, drainage, land ownership including right-of-way boundaries and adjacent private land parcels in the project area. With assistance from the City, the Consultant shall obtain final design documents for the adjacent freeway interchange project that will affect the bikeway design.

Deliverables: Documentation of pertinent information including photographs, mapping, schematics, field notes, as-built plans, and other required information.

Task 3: Boundary Survey

The Consultant shall conduct a boundary survey for all properties within the Project Area. The boundary survey shall establish ties to the existing and proposed street right-of-way and nearest established survey boundary markers. Survey shall include the locations of all rights-of-way, utility and other easements, and other encumbrances, and building locations and setbacks from all property lines.

- 1) All boundary line data shall include all distance, bearing, delta, and other necessary information for all properties within the Survey Area.
- 2) General building outlines and locations shall be depicted with building setbacks by bearing and distance from each major corner.
- 3) Properties which abut the proposed intersection improvement shall be properly identified, showing distance to the nearest known datum point along the right-of-way.
- 4) Boundary Survey shall be plotted using AutoCad (latest version) and provided in a '.dxf' file format readable by the City of Burbank's Public Works Department's (PWD) AutoCad system. Boundary lines, rights of way, easements, and building locations shall be in separate layers.
- 5) Boundary Survey shall be completed in accordance with all requirements of the Los Angeles County Registrar-Recorder/County Clerk's Office, and suitable for recording.

Deliverables: One (1) original copy of the survey plan sheets stamped by a professional surveyor licensed and registered to practice in the State of California, on Mylar at a scale of 1"=20'; one (1) electronic file (Adobe PDF) copy of the stamped survey plan sheets and one (1) electronic file copy in original file format shall also be provided.

Task 4: Topographic Survey

The Consultant's shall complete and provide a topographic survey of all properties within the Project Area. The Consultant shall locate all physical features including building outlines, sidewalks, driveways, building fence, etc.

The Topographic Survey shall be plotted using AutoCad or compatible graphic design system, and provided in a '.dxf' file format readable by City of Burbank's PWD's AutoCad system. Boundary lines, rights of way, easements, and building locations shall be in separate layers.

Deliverables: One (1) original copy of the survey stamped by a professional surveyor licensed and registered to practice in the State of California, on Mylar at a scale of 1"=20'; one (1) electronic file (Adobe PDF) copy of the stamped survey plan sheets and one (1) electronic file copy in original file format shall also be provided.

Task 5: Right-of-Way Survey/Engineering

In order to acquire all necessary property and easements needed for the intersection improvement, the Consultant shall obtain all existing property ownership information needed to complete the design of this project and complete right-of-way dedication acquisition documentation needed to construct the intersection improvement. The conceptual design indicates that two small dedications will be required on the northwest corner of the intersection adjacent to Burbank Boulevard to provide an expanded turn radius and transit passenger waiting area. The Consultant shall collect preliminary Title Reports and other pertinent data, and coordinate with staff from public agencies and property owners in preparation of final right-of-way documentation. The final documentation shall identify all affected parcels and describe additional right-of-way or easements necessary to construct the proposed improvements. The Consultant shall prepare legal descriptions and plats of all right-of-way acquisitions or easements needed for completion of the proposed improvements.

Task 6: Utility/Other Agency Investigation and Coordination

The Consultant shall coordinate with all potentially affected utility companies within the project limits to ensure that all existing facilities, both underground and overhead, are identified accurately. The Consultant shall coordinate efforts with these resource agencies, to the extent needed, to prepare the PS&E package. The Consultant shall verify that all affected utilities including, but not limited to water, electric, gas, communication, storm drain, and sewer utilities have been identified within the project limits.

The Consultant shall address any utility conflicts by modifying the design of the improvements or designing any required utility relocations, if the relocation is not covered by a franchise agreement. The design for any utility relocation shall conform to the standards of the utility owner.

Utility research should include both a field review/field work and review of available as-built drawings and encroachment permits for the project area. The results of this review shall be a final database of utility records indicating type of utility, owner, drawing number, and other relevant information. Consultant shall also prepare a final base utilities map of the project area showing locations of all existing utilities.

- 1) Utility Coordination: A preliminary utility database and base map indicating several major utilities including national-trunk fiber-optic telecommunications, oil lines, and (reclaimed) water lines have been prepared during the preliminary engineering phase. The Consultant shall review these existing documents and also coordinate with all of the affected utility companies and governmental agencies to obtain precise horizontal and vertical locations of their existing facilities. Said information shall be clearly shown and noted on the plans and taken into consideration for the final design for the bikeway. The Consultant shall keep accurate records of all correspondence with affected utility companies and governmental agency representatives.
- 2) Utility Location / Depth Verification: In order to significantly reduce the risk of loss of property, damage, and injury associated with contacting or cutting underground utilities, the Consultant

shall perform utility excavations (methodologies include potholing or Electronic Depth Verification [conductive / inductive locating]), to confirm that the location and depth of affected utilities are correctly identified for final design and to avoid conflicts during construction.

The Consultant shall identify all critical utilities (if any) that should be potholed or verified via Electronic Depth Verification (conductive / inductive locating). Potholing work shall be conducted by the Consultant, or coordinated through a licensed subconsultant whose area of specialty is potholing utilities. In certain cases however, specific utility companies have noted that potholing of fiber optic lines will be conducted in-house (i.e., Sprint). Subsequently, the Consultant shall work with the City's Project Manager to identify which utility companies will conduct their own potholing activities.

The Consultant shall determine the precise horizontal and vertical location of each utility that is potholed. If possible, the Consultant shall note in their proposal, the location(s) and number(s) of potholes that will be required. This list of required potholes and the schedule to commence work shall be approved in advance by the City's Project Manager. The Consultant shall notify the City at least 48 hours prior to potholing utilities. Immediately after determining the precise location and depth of the utility, potholes shall be backfilled with non-shrink grout.

- 3) The Consultant shall coordinate with City of Burbank and other public and private service providers in regards to traffic control and construction staging. The consultant shall also coordinate and cooperate with the City of Burbank, Burbank Water and Power (BWP), Sprint, Qwest, MCI, Pacific Pipeline Systems, and all other affected utility companies for their design of utility and fiber relocations and possible undergrounding of overhead utilities.

The Consultant shall provide all required traffic control measures during excavation work in accordance with the latest edition of the Manual of Uniform Traffic Control Devices.

The Consultant shall submit 3 copies of a report listing all of the information obtained during potholing of existing utilities. The pothole information shall be shown on a map in plan and profile views. The Consultant shall indicate all utility work on the plans and in the specifications. The Consultant shall also provide copies of the plans in digital format if requested by the utilities.

Deliverables: Updated, Final Utility Database and Base Map, three (3) hard copies; one (1) electronic file (Adobe PDF) copy, and one (1) electronic file copy in original file format shall also be provided.

Task 7: Geotechnical Investigations

The Consultant shall ensure that all geotechnical conditions within the Project limits that may affect final design and construction are identified and addressed in the final design of the project. These investigations should include any design parameters, bearing capacity, anticipated settlements, backfill requirements, trenching recommendations, compaction requirements, subgrade preparation, and treatment recommendations for wet, unsuitable, and/or saturated conditions as appropriate.

- 1) The Consultant shall perform any soil sampling and studies as necessary to obtain detailed information required for final design of the intersection improvement including necessary structures and retaining walls. If borings are required, the Consultant shall provide the number of necessary borings in the project area, located appropriately to provide sufficient information to support cost-effective solutions for final design of the proposed improvements. The proposed boring locations (and quantity) shall be identified in the proposal. Coordination and approval from the City shall be required prior to commencement of the work.

It is the consultant's responsibility to determine the locations of all soils tests and borings. The City will review the locations for concurrence.

The Consultant shall notify the City at least 48 hours prior to boring operations. Immediately after obtaining soil samples, boring holes shall be backfilled with non-shrink grout. Any asphalt or concrete affected by soil samples shall be repaired to the satisfaction of the City.

The Consultant shall provide all required traffic control measures during geotechnical field work in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and in accordance to City regulations and ordinances.

The Consultant shall obtain all required permits and utility mark outs at least 48 hours prior to commencement of any geotechnical field work, including a no-fee City encroachment permit.

- 2) Geotechnical Testing and Report: For locations that require shoring, design of retaining walls, and/or structures, the Consultant as necessary shall indicate variances in subsurface conditions at the test locations to derive exact soil conditions for final design purposes.

The Consultant shall verify existing moisture content, material classification, expansion potential, corrosion potential, sand equivalency, and water level at depths adequate for the design of the proposed improvements.

Consultant shall perform R-value tests at a depth representative of the final subgrade, and provide pavement-section design calculations.

Consultant shall perform soil strength analysis and provide cost-effective recommendations for grading, subgrade preparation, allowable soil bearing pressures, and equivalent hydrostatic pressures, for use in the design of the proposed improvements, including structures and shoring.

Consultant shall prepare and submit a geotechnical investigation report or technical memorandum containing project description, table of existing soil profile at all boring locations (identifying thickness and material types for pavement, base, soil, and rock), recommendations for bedding and backfill of pipeline trenches, test results, traffic indices (City will provide Traffic Index), proposed structural sections, proposed subgrade

preparation for unsuitable or saturated material (estimated depths, quantities of over excavation, and treatment procedures), other reasonable and cost-effective recommendations, boring logs and location maps (showing depths of borings, horizontal distances from known points to boring locations, and geotechnical analyses).

- 3) Consultation: The Consultant shall be available to clarify geotechnical information and answer questions during design, bidding, and construction phases for the Project.

Deliverables: Final Geotechnical Investigation Report – three (3) hard copies and one (1) electronic file (Adobe PDF) copy.

Task 8: Hydraulic Analysis

There are several areas that within the project limits that may be affected by storm runoff. The Consultant shall prepare necessary hydrology analyses to identify hydrologic considerations that may affect the design. The Consultant shall analyze existing drainage systems and propose any new systems (catch basins) that may be needed to accommodate future design flows, including proposed improvements. Hydrology shall account for any changes in flows caused by the adjacent freeway project and Burbank Boulevard interchange reconfiguration.

A Hydraulics / Hydrology Study shall be prepared summarizing the findings and proposed drainage improvements. In addition, the Consultant shall identify potential storm water quality impacts and develop options to avoid, reduce, or minimize the potential for storm water quality impacts. The Consultant shall incorporate into its design, sufficient storm water controls which identify project-specific measures that shall mitigate any identified impacts. Drainage areas and total disturbed area shall be defined, as will climatic conditions, existing drainage conditions, site permeability, soil texture, existing vegetation (if any), and groundwater.

Deliverables: Final Hydraulics / Hydrology Study – Three (3) hard copies and one (1) electronic file (Adobe PDF) copy.

Task 9: 30% and 60% Submittal (PS&E)

Based on the works from the conceptual layout, the Consultant shall prepare and submit 30% and 60% interim design plans and develop a preliminary estimate of probable construction costs for all segments of the proposed improvement. Works shall include the necessary civil and structural modifications to roadways, curb and gutter, catch basins, utilities, lighting, and other structures; grading, geometric and traffic striping treatments; traffic signal design, landscape design (including recycled irrigation design), and transit stop improvements.

Existing base maps shall be developed into design drawings which shall clearly illustrate the limits of the intersection improvements, type of construction, and other items necessary for the construction of the improvements.

Due to the scale of the project, the City expects this project to be Categorically Exempt under the California Environmental Quality Act (CEQA). However, Consultant shall assist City in

determining if any aspects of the project design may cause environmental impacts that should be analyzed as part of the environmental review process. The Consultant is not responsible for conducting environmental review for this project. However, the Consultant shall assist the City to prepare and obtain all necessary regulatory permits required for construction, i.e., Notice of Intent for State Water Quality Control Board compliance, etc.

At the 60% design plan submittal, Consultant shall prepare a draft landscape plan showing the placement of street trees and other landscape elements in City right of way. The landscape plan shall identify street tree and plant type and species, location, provision for tree wells or other elements, hardscape, and other landscape treatments. Landscape plan should include an irrigation plan for proposed trees and planting, including tie-ins to the City's recycled water system which is available in the project area. Consultant will coordinate with the Park, Recreation, and Community Services Department Forestry Division on the selection of trees and landscaping.

As part of each design submittal to the City, the Consultant shall schedule a PDT meeting to present the draft design to Project stakeholders for review and comments. Once the design is presented at the meeting, the Consultant shall distribute a set of hard copies of the design submittal to members of the PDT team (one [1] set for each agency or department) for further comments.

After the Consultant receives comments from the stakeholders (PDT) on each interim design submittal (Task 9), the Consultant shall make the necessary changes to the submittal and re-submit the design package to the City.

***Deliverables:** Each 30% and 60% design submittal shall both include outline specifications, three (3) hard-copy sets of preliminary plans and preliminary estimate of probable construction costs; one (1) electronic file (Adobe PDF) copy of the stamped and signed plans and outline specifications and one (1) electronic file copy in original file format shall also be provided.*

Task 10: 90% Submittal (PS&E)

Once the City receives the final 60% design submittal (Task 9), the Consultant shall schedule a meeting with the City (and PDT members to review the revisions on the final 60% design submittal package. Following this review session(s), the Consultant shall prepare the 90% design submittal.

The project design shall essentially be complete for this submittal. All comments from the 60% submittal review shall have been addressed. The Consultant shall adhere to all federal, state, and local requirements, regulations, guidelines, and standards for the PS&E package as applicable. Included in the submittal shall be eight (3) sets of stamped plans, two (2) copies of the signed specifications and two (2) copies of the engineer's estimate. The landscape plan prepared at the 60% submittal shall be incorporated into the 90% and subsequent design packages.

Testing within the specifications shall follow the City's Quality Assurance Plan (QAP).

As part of the 90% design submittal to the City, the Consultant shall schedule a PDT meeting to present the draft 90% design to Project stakeholders for review and comments. Once the 90% design is presented, the Consultant shall distribute a set of hard copies of the 90% design submittal to members of the PDT team (one [1] set for each agency) for further comments.

After the Consultant receives comments from the stakeholders (PDT) on the 90% design submittal (Task 9), the Consultant shall make the necessary changes to the 90% submittal and re-submit the final 90% design package to the City.

***Deliverables:** The final 90% design submittal shall include three (3) hard-copy sets of stamped plans, two (2) hard-copies of the signed specifications and two (2) hard-copies of the engineer's estimate; one (1) electronic file (Adobe PDF) copy of the stamped and signed plans, specifications, and engineer's estimate and one (1) electronic file copy in original file format shall also be provided.*

Task 11: 100% Submittal (PS&E Package)

Once the City receives the final 90% design submittal (Task 10), the Consultant shall schedule a meeting with the City (and PDT members to review the revisions on the final 90% design submittal package. Following this review session(s), the Consultant shall prepare the 100% PS&E Package.

The Consultant shall also ensure that all design calculations, deliverables, and other works are independently verified to ensure accuracy. All exhibits, plans, and reports should be checked, corrected, and back-checked for accuracy and completeness.

Included in the final submittal shall be three (3) sets of full-sized plans, two (2) copies of ½ sized plans, two (2) copies of the specifications and two copies of the engineer's estimate. Additionally, one (1) electronic file copy in original file format and one (1) electronic file (Adobe PDF) copy of each document and exhibit shall be submitted.

***Deliverables:** The final 100% design submittal shall include three (3) sets of full-sized plans, two (2) sets of ½ sized plans, two (2) copies of the specifications and two (2) copies of the engineer's estimate. Additionally, two (2) copies of the required LAPM documents and exhibits for PS&E submittal to Caltrans; one (1) electronic file (Adobe PDF) copy of the complete plan set (stamped and signed), and one (1) electronic file copy in original file format shall also be provided.*

Final Submittal (Bid Set)

Preparation of Construction and Bid Documents

The Consultant shall prepare full construction plans, specifications, and all supporting bid documents for the Project, including assembling a draft bid package using the City-supplied "boiler plate" bid documents as necessary. These documents will be used by City staff to prepare the "front end" bid documents and final bid package for advertisement. The plans shall

be completed in accordance with City requirements and will be completed in consultation with Community Development Department Transportation Section and Finance Department Purchasing Division.

Construction Plans

The Consultant shall prepare construction plans showing all details needed to communicate the required work to contractors. The Consultant shall include all necessary design details and ensure that all completed facilities comply with the ADA requirements, and the California and City of Burbank Building Codes.

Prepare Construction Documents

- 1) The Consultant shall prepare the construction plans for the bid packages required for the proposed improvements. The Consultant shall employ best practices to control dust, erosion, and sedimentation produced during construction. The plans shall indicate all items of work, including but not limited to: construction staging and phasing, temporary and permanent erosion control, traffic control, clearing and grubbing, cutting and capping existing facilities, utility relocation and undergrounding, earthwork - grading, paving, slopes, curb and gutter, cross gutters, sidewalk, driveways and connections to access roads, pedestrian ramps, walkways and access ramps, bus stops and turnouts, pavement and base, asphalt berms, sanitary sewer access roads and manhole adjustments, drainage facilities, structures - bridges or culverts, retaining walls, traffic engineering - signing and striping, traffic signals, signal interconnection conduit, fencing, electrical systems and lighting, security systems, decorative hardscape, landscaping and irrigation, plumbing, and other related work required to complete the project. All items of work shall be shown in plan view and profile view.
- 2) The Consultant shall prepare plans showing all details needed to communicate the required work to contractors. The Consultant shall include all necessary design details and ensure that all completed facilities comply with current ADA requirements. Retaining wall details shall be shown in separate elevation views with top of wall and top of footing elevations listed. The retaining wall details shall also include existing and proposed ground lines at front and back of wall, and a profile line to indicate any sloping backfill conditions.
- 3) The Consultant shall prepare plans on 24" x 36" Mylar sheets with the City of Burbank title block. General plans shall be prepared at 1" = 20' or 1"=40' scale with one-foot contour accuracy. Design details shall be prepared at 1" = 5' or 1" = 10' scale, as appropriate.
- 4) The Consultant shall prepare the project specifications for each of the bid packages, including, but not limited to, Bid Sheets, Engineer's Estimate, Supplementary General Provisions, Supplementary Technical Provisions, copies of referenced standard drawings, geotechnical investigation, agency forms, and other related documents, in a format consistent with the City of Burbank boiler plate. The Supplementary General and Technical Provisions shall be written to modify the *Standard Plans for Public Works Construction (Green Book)*, as necessary.

Prepare Resident Engineer's Estimates

- 1) The Consultant shall prepare Engineer's Estimates of construction costs, based on detailed quantity takeoffs and current unit prices. Measurement of quantities shall be based on the methods described in the City of Burbank's Standard Special Provisions, and measurements shall be documented in writing.
- 2) The Engineer's Estimate will be used to authorize the construction phase of the Project and shall appropriately reflect the anticipated cost of the Project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the City of Burbank and to permit an effective review and comparison of the bids received. The Engineer's Estimate must be prepared in a format, which describes the item of work, unit amount, quantity, unit price, amount, a subtotal, contingencies and a total.
- 3) After bids are opened and the project has been awarded, a Detail Estimate will be prepared by the City of Burbank, which will upgrade the preliminary estimate by using actual bid amounts rather than estimates.
- 4) A reasonable upward adjustment shall be applied to all bid quantities that may vary during construction to allow for any necessary design adjustments. Contingency bid items shall be included for work that may be required during construction. Contingency bid items are those items of work that may or may not be needed on the project, due to possible conditions that may be encountered during construction.

Prepare Construction Schedule

The Consultant shall prepare a construction schedule, in order to determine the contract time to be included in the Notice Inviting Bids. The construction schedule shall provide estimates of all standard construction tasks, and shall include as a minimum, a task for each bid item in the cost estimate. The schedule shall also take into account lead times for long-lead equipment, such as signal poles, light poles, electric equipment, irrigation equipment, etc.

Prepare Resident Engineer Files

The Consultant shall prepare and submit two (2) Resident Engineer files. The files shall contain, at a minimum, the preliminary and final construction quantities, and cost estimates, one color-coded set of blueprints (blackline drawings) with the plan views and cross sections showing different colors for each item of construction, the total work quantities for each sheet shown on each sheet, and the total work quantities for all sheets shown on the first sheet. All quantities shown on the plans shall match the quantities shown on all other bid documents.

- 1) Construction plans shall be blackline drawings at a scale of 1"=20', and shall be provided to the City on cut sheets. Plans shall include all details, cross sections, profiles, and elevations as may be required for the intersection improvements, furnishings, lighting, traffic signal, drainage system and structures, etc.

- 2) Particular attention should be given to providing adequate dimensional and cross sectional details for all areas related to handicapped access, to properly document that statutory and regulatory access requirements are being met by the design.
- 3) Plans shall be submitted to the City's Project Manager for review and comment at the 60%, 90% and 100% completion stages, and all comments shall be incorporated into the final contract documents.

Construction plans shall be accompanied by detailed written specifications for each bid item. The basis for the specifications for the proposed design shall be the *Standard Specifications for Public Works Construction (Green Book)*. Any standard specifications of the City of Burbank, Engineering Division shall be incorporated by the Consultant as special provisions.

Note: *The Consultant shall prepare an itemized construction cost estimate utilizing prevailing prices.*

Deliverables: *Final bid documents including one (1) original Mylar and twenty-five (25) copies of stamped and signed drawings, twenty-five (25) bound copies and one (1) camera-ready copy of Contract Specifications with a stamped and signed cover. One (1) electronic file (Adobe PDF) copy of the final bid documents (stamped and signed) and one (1) electronic file copy in original file format shall also be provided.*

Temporary Traffic Control (TTC) Plan

The Temporary Traffic Control (TTC) Plan shall describes the measures to be used to facilitate road users through a work zone, an incident area, or other event that temporarily disrupts normal road user flow.

The TTC Plan shall be consistent with the provisions under Part 6 of *the California Manual on Uniform Traffic Control Device (MUTCD)* and with the work zone hardware recommendations in Chapter 9 "Traffic Barriers, Traffic Control Devices and Other Safety Features for Work Zone" (2002 Edition) of the *AASHTO Roadside Design Guide*.

In developing and implementing the TTC Plan, the pre-existing roadside safety hardware shall be maintained at an equivalent or better level than what existed, prior to project implementation. The scope of TTC Plan shall be determined by the project characteristics and the traffic safety and control requirements identified by the City of Burbank for the Project. The TTC Plan shall be either referenced to specific TTC elements in the MUTCD, approved standard TTC Plans, the *California State Transportation TTC Manual*, or to be designed specifically for the Project.

Deliverables: *Plans, Specifications and Estimates (PS&E's) shall include a TTC Plan at the most appropriate project phase that shall be applicable to the City's chosen contracting methodology for the project.*

Task 12: Additional Services (Optional Tasks)

The services described in this section are not included in the Consultant's Basic Scope of Work, and shall only be provided if requested and authorized or confirmed in writing by the City of

Burbank and shall be considered “Optional Tasks”. All “additional services” shall be priced separately as optional tasks in the cost proposal and shall be included as part of the Consultant’s proposal.

Bidding and Selection

While City staff will advertise the project for construction, the Consultant shall assist the City of Burbank in the advertising, bidding, and selection process.

The Consultant shall prepare all necessary addenda for the City and provide clarification to the City regarding any questions on the bid documents during the bid phase. The Consultant shall attend the Pre-Construction Meeting and other meetings with City staff, other agencies, and the public as required by the City. Consultant and subconsultants shall be available to comment on various design and construction issues during the construction phase, including submittals, requests for information, and change order requests.

- 1) The Consultant shall assist the City in completing “front end” bid documents in accordance with City of Burbank, and other relevant ordinances, regulations and statutes. The Consultant shall provide 25 hard-copy sets of bid documents, plans and specifications.
- 2) The Consultant shall assist the City in preparing all advertising text, in accordance with the relevant statutes and regulations. The City of Burbank shall be responsible for the actual advertising of the bid.
- 3) The Consultant, represented by all key members of the design team, shall attend one pre-bid meeting with potential bidders, to answer questions regarding the plans and specifications. The Consultant shall keep a written record of each question asked, and the ultimate response by the City of Burbank, the City Engineer, and/or the Consultant, for eventual distribution to the bidders.
- 4) The Consultant shall assist the City of Burbank in evaluating the bids, selecting the Contractor, and awarding the contract. This shall include assisting in documenting the basis for any bid rejection, if at the sole discretion of the City of Burbank this is considered necessary for the public interest.

Deliverables: Twenty-five (25) hard-copy sets of bid documents, plans and specifications; one (1) pre-bid (pre-construction) meeting attendance, meeting minutes, meeting follow-up correspondence; documentation of bid rejection(s).

Services During Construction

Construction supervision will be performed by the City of Burbank Public Works Department (PWD). However, if requested, the Consultant shall continue to assist the City and the PWD in several capacities once construction has begun on the Project. The Consultant shall provide the services during construction normally required of consultants.

Construction Services

Upon the request of the City of Burbank or the PWD, the Consultant shall provide assistance / advice during construction on the content of the contract plans and specifications, review of shop drawings submitted by the Contractor, performance of periodic or final inspections, and certification that the Contractor has completed the project in conformance with the project plans and specifications.

Testimony During Litigation

Upon request by the City, the Consultant shall be available to provide expert testimony during litigation, arbitration, mediation, or other form of dispute resolution, involving the Contractor, subcontractors, or any other party during or after the completion of construction. Work shall include all necessary meetings, research, or other work necessary to prepare for testimony.

Post-Construction Services

Providing as-built / record drawings after construction has been completed to identify any changes on final design drawings is an important component of the PS&E. To ensure that all management records reflect the as-built conditions, the Consultant shall verify that proper constructions methods were followed during construction and that all construction services were performed in adherence to the construction documents. The Consultant shall update critical systems (GIS, AutoCAD data, etc.) to reflect accurate system data.

As part of a post-construction verification survey the following services shall be included (but not limited to):

- Clearance Analysis
- Height Measurements
- Loading Analysis

Deliverables: Final set of record drawings, five (5) hard-copies, and one (1) electronic file (Adobe PDF) copy (stamped and signed) and one (1) electronic file copy in original file format shall also be provided.

C. Project Schedule

The City of Burbank expects to complete final design for this project by **March 1, 2012** in order to advertise the project for construction by **July 2013**. As part of the response to this RFP, the Consultant shall propose a realistic, justifiable schedule to complete the above work in a reliable and cost-effective manner.

III. PROPOSAL REQUIREMENTS

A. General Requirements

It is in the interest of both the City of Burbank and Consultants that proposers submit documents which are well-structured and can be evaluated easily. The following proposal requirements offer guidance regarding preparation of proposals having these characteristics:

B. Proposal Contents

Proposals submitted in response to this RFP shall be in the following order and shall include:

1) Table of Contents

2) Executive Summary

Include a 1-2 page overview of the entire proposal describing the most important elements of the proposal.

3) Identification of the Proposer and Establishment of Proposer's Fiscal Responsibility

Please provide the following information:

- a) Legal name and address of proposer's company.
- b) Number of years that proposer's company has been in business.
- c) Legal form of company (partnership, corporation, joint venture, etc.) and years in business. Include documentation of all members or partners in the company structure. If a corporation, certify the company's good standing with the Secretary of State.
- d) If company is a wholly-owned subsidiary of a parent company, provide the legal name and form of the parent company.
- e) Addresses of offices that will work on this project.
- f) Name, title, address, e-mail address, and telephone number of the person to contact concerning the proposal.
- g) State whether the proposer has filed for bankruptcy in the last ten years and provide any other relevant information showing that the proposer is financially capable of completing the project.
- h) Include all license numbers for licenses relevant to or required for this project, the names of the holders of these licenses, and the names of the agencies issuing the licenses.

4) Experience and Technical Competence

Please describe experience in completing studies for similar railroad grade separation or other large bridge or grade separation projects that provide evidence of experience in completing the tasks outlined in this project scope of work. List at least three successfully completed projects of similar nature. For each project, provide the name of the company and project manager, contact information for the project manager, type of work performed,

and approximate dollar value of the contracts. A project currently being performed may be submitted.

5) Proposed Method to Accomplish the Work

Describe the proposed management and technical approach to the project and how each of these factors shall be addressed in the project effort. Provide a proposed project schedule with project milestones. Include a discussion of proposed lines of communication between the project team and the proposer's consultant team.

6) Knowledge and Understanding of Stakeholders, Local Environment, and Relevant Laws

Describe relevant experience working with relevant project stakeholders in developing a project of this scope. Describe familiarity with local, regional, and state agencies' policies and regulations, the California Environmental Quality Act (CEQA), geo-technical documentation requirements, geo-technical conditions in the project area, local building codes, and other design criteria. Describe experience and knowledge of applicable state and federal laws.

7) Project Organization and Key Personnel

a) Describe proposed project organization, including identification and responsibilities of key personnel. Indicate role and responsibility of prime consultants and any subconsultants. If applicable, indicate how local firms are being utilized to ensure a strong understanding of state and local laws, ordinances, regulations, policies, and requirements. Indicate the extent of the commitment of key personnel for the duration of the project and furnish resumes of key personnel. Provide an indication of the staffing level for the project. RFP responses shall be evaluated through consideration of the entire project team, therefore, no changes in the team composition shall be allowed without prior written approval of the City of Burbank. Subconsultant letters of commitment are required.

b) Describe the experience of the proposer's project team in detail, including the team's project manager, and other key staff members, on similar grade separation study projects. For each project, include the client's name and contact information.

8) Previous Contracts with City of Burbank

The proposer shall submit a list of any project contract awards or amendments awarded by the City of Burbank to the proposer in the last three years. The list shall include a short description of the project, brief summary of the project scope of work, award date, completion date, City of Burbank project manager, and contract value.

9) Exceptions to this Request for Proposals

The proposer shall identify whether it takes exception to this RFP, including but not limited to the City's standard *Professional Services Agreement* (Attachment D). If the proposer does take exception to any portion of the RFP or contract, the specific portion to which the exception is taken must be identified and explained. Any exception noted in the Project proposal shall be considered a waiver of any objection. Any exception noted shall be considered in the evaluation process.

10) Addenda to this Request for Proposals

If any addenda to this proposal are issued by the City of Burbank, proposer shall confirm receipt of any addenda received.

11) Statement of Impartiality

The nature of this project requires an impartial, unbiased approach on the part of the consultant team. Therefore, this proposal shall include a statement declaring that the consultants and subconsultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third party with interests currently in conflict or likely to be in conflict with the City of Burbank's interests on this Project. In addition, the Consultant shall be required to certify that no member or employee of the consultant firm, or any subconsultant, is an officer, director, or employee of the City of Burbank.

12) Detailed Cost Estimate

The Consultant shall provide an estimate of the total direct and indirect costs to complete all tasks identified in the scope of work. A detailed cost breakdown shall be provided identifying: 1) the number of staff hours and hourly rates for each professional and administrative staff person who will be committed to this Project, including fringe and overhead costs, 2) an estimate of all other direct costs, such as materials and reproduction costs, and 3) an estimate of sub-consultant services if needed.

Cost estimates must be submitted in a separate, sealed envelope, and no information on costs shall be included in the contents of the response to the RFP. The detailed cost estimate for a consultant selected for contract negotiations will be unsealed following the proposal evaluation process.

The Client shall pay for Consultant services on a lump sum, fixed-price basis. No payment for expenses or labor shall be paid by the Client unless it is related to a service, which is referred to in the Scope of Work. The fixed fee is not adjustable during the life of the contract unless there is a significant change in the scope of the work; in which case the fee may only be renegotiated through a contract amendment via an approved change order (CO) through the City's Project Manager.

IV. PROPOSAL SUBMITTAL

- A. One (1) original and four (4) copies of the proposal shall be submitted, having been signed by the individual or company official with the power to bind the company in its proposal. Emails or facsimile submittals shall not be accepted. Due to the unnecessary paper and plastic waste generated by a typical Request for Proposals response, SUBMITTALS SHALL BE PRINTED ON PLAIN 8.5" x 11" WHITE PAPER AND SHOULD BE BOUND, IF NECESSARY IN SIMPLE PLASTIC BINDING OR STAPLED. Folded 11" x 17" sheets for any maps or diagrams are permitted. Proposals, including fee proposals (fee proposals to be sent in a separate, sealed envelope), shall be submitted to:

David Kriske, Deputy City Planner for Transportation
City of Burbank
Community Development Department
275 East Olive Avenue
PO Box 6459
Burbank, CA 91510-6459
(for US Postal Mail and UPS mailings)

City of Burbank
Community Development Department
150 North Third Street
Community Services Building, 2nd Floor
Burbank, CA 91502
(for Federal Express/overnight service, or in-person delivery)

- B. Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package:
1. Name of proposer
 2. Project title
 3. One original, detailed cost estimate shall be submitted in a separate, sealed envelope. The name of the proposer, the project title, and "Cost Proposal" shall be clearly written on the sealed envelope.
- C. Failure to comply with the requirements of the RFP may result in disqualification. The City of Burbank is not responsible for finding, correcting, or seeking correction of any errors or ambiguities in proposals. Errors and ambiguities may result in a proposal receiving a lower score during the evaluation process. The City of Burbank reserves the right to disqualify a proposal with mathematical errors, gross clerical errors, inconsistencies, or missing information which prevents the proposal from being fully evaluated. The City of Burbank may, at its discretion, seek clarification from a proposer regarding information contained in a proposal. Any errors or ambiguities contained in proposals shall be interpreted in favor of the City of Burbank.

- D. Proposals or modifications to proposals received after the due date specified above shall not be considered.

V. ADDITIONAL CONSULTANT REQUIREMENTS

The following information is not required for the project submittal, but the selected consultant must provide the requested information upon selection. Additionally, the commencement of work for the selected consultant would be expedited if the information is provided in conjunction with the initial submittal.

- A. Evidence of California Worker's Compensation Insurance with Statutory Coverage and Employers' Liability limits meeting all State minimum requirements. A Waiver of Subrogation Endorsement in the City's favor shall be required from the insurer of the successful bidder.
- B. Evidence of General and Automobile Liability Insurance providing at least \$1,000,000 combined single limit per occurrence for bodily injury and property damage including the City, its officers, agents and employees are to be named as additional insured. The City must also be named additionally insured with a separate endorsement on the General Liability insurance.
- C. Evidence of \$1,000,000 of Professional Liability Insurance (errors and omissions coverage).

VI. EVALUATION CRITERIA

The City of Burbank will establish a consultant evaluation committee for this project which will include representatives from the City. Based upon the proposals submitted, the evaluation committee may establish a short-list of qualified firms for the project and make final selection from this list. The City of Burbank may, at its discretion, make final consultant selection upon evaluation of the written proposals without creating a short-list or other pre-selection activity. The committee may or may not interview candidates for this RFP. Based upon appropriate evaluation factors, the committee will rank the qualified finalists.

Submitted RFP responses shall be evaluated for the ability to respond the project scope based on the following general criteria:

A. Project Experience with Similar Kinds of Work

Qualified consultants shall have combined experience in designing both bike path facilities as well as more generalized bridge design experience due to the required new and modified bridge structures that must accommodate the bike path. Other consideration shall be given to firms with experience coordinating with multiple jurisdictions and have familiarity with requirements of LA County Public Works,

Metrolink, and Union Pacific. Submittals should detail prior work experience with references as described in the Proposal Requirements of this RFP.

B. Project Understanding, Proposed Methodology and Approach to Scope of Work

Qualified consultants must demonstrate the ability to carry out the project by meeting all of the proposal requirements outlined in the Project Scope of Required Services. Clear and detailed proposals should show a good understanding of the project and should describe a clear approach to meeting each of the project requirements. Proposal shall also demonstrate a willingness to comply with standard contract requirements for federal projects.

C. Staff Qualifications

Qualified consultants shall demonstrate appropriate qualifications to perform the required work outlined in the Scope of Services. Project staff qualifications include a combination of experience, education, and background in management, transportation, civil, and/or industrial engineering, and organizational development. Specific qualifications shall include experience with the design of bike paths and other transportation facilities.

D. Other Criteria

Qualified consultants shall demonstrate abilities in additional areas including capability of developing innovative or advanced techniques, familiarity with state and federal procedures, financial responsibility, and demonstrated technical ability.

VII. SCHEDULE FOR NOMINATION, SELECTION, AND AWARD

The City of Burbank anticipates that the consultant selection process will occur over a six-week period, with RFP advertising and response occurring over a three-week period, and RFP selection, approval, and contract negotiations and approvals occurring over an additional three-week period. A tentative schedule is as follows:

Advertise and Issue RFP	August 27, 2012
Proposal Due	September 20, 2012
Selection and Intent to Award	September 28, 2012
Contract Approval	October 23, 2012
Issue Notice to Proceed	October 25, 2012

VIII. SPECIAL CONDITIONS

1. The information provided shall be used to evaluate the qualifications of each proposing organization. Material submitted in response to this RFP becomes a part of the project record and thus may be subject to public review.

2. The City of Burbank reserves the right to reject any and all proposals submitted, and is not liable for any pre-contractual expenses. Pre-contractual expenses are defined as expenses incurred by any responder to this RFP in preparing the proposal, submitting the proposal to the City, negotiating with the City on any matter related to the proposal, or any other expenses incurred (if any) prior to the date of award of any agreement. The City shall not, in any event, be liable for any pre-contractual expenses incurred by a responder to this RFP.
3. City staff will review all proposals received.
4. Any subsequent changes in the RFP from the date of issuance to the date of submittal shall result in an addendum by the City of Burbank.

IX. ATTACHMENTS TO THIS RFP

- A. Project Location Map
- B. Project Limits
- C. San Fernando Blvd. / Burbank Blvd. Intersection Conceptual Layout
- D. Caltrans Interstate 5 HOV / Empire Interchange 100 Percent Plans
- E. City of Burbank Draft Engineering Agreement

ATTACHMENT A

San Fernando Blvd. / Burbank Blvd. Intersection

Project Location Map

ATTACHMENT B

San Fernando Blvd. / Burbank Blvd. Intersection

Project Limits

ATTACHMENT C

San Fernando Blvd. / Burbank Blvd. Intersection

Conceptual Layout Plan

ATTACHMENT D

Caltrans Interstate 5 HOV / Empire Interchange Project

100 Percent Plans and Specifications

Caltrans Plans and Specifications can be downloaded from the Caltrans website at:

http://www.dot.ca.gov/hq/esc/oe/project_ads_addenda/07/07-1218W4/

ATTACHMENT E

City of Burbank Draft Engineering Agreement

ATTACHMENT A

San Fernando Blvd. / Burbank Blvd. Intersection

Project Location Map

San Fernando Boulevard / Burbank Boulevard Project Location Map



ATTACHMENT B

San Fernando Blvd. / Burbank Blvd. Intersection

Project Limits

San Fernando Blvd / Burbank Blvd Intersection Improvement Project

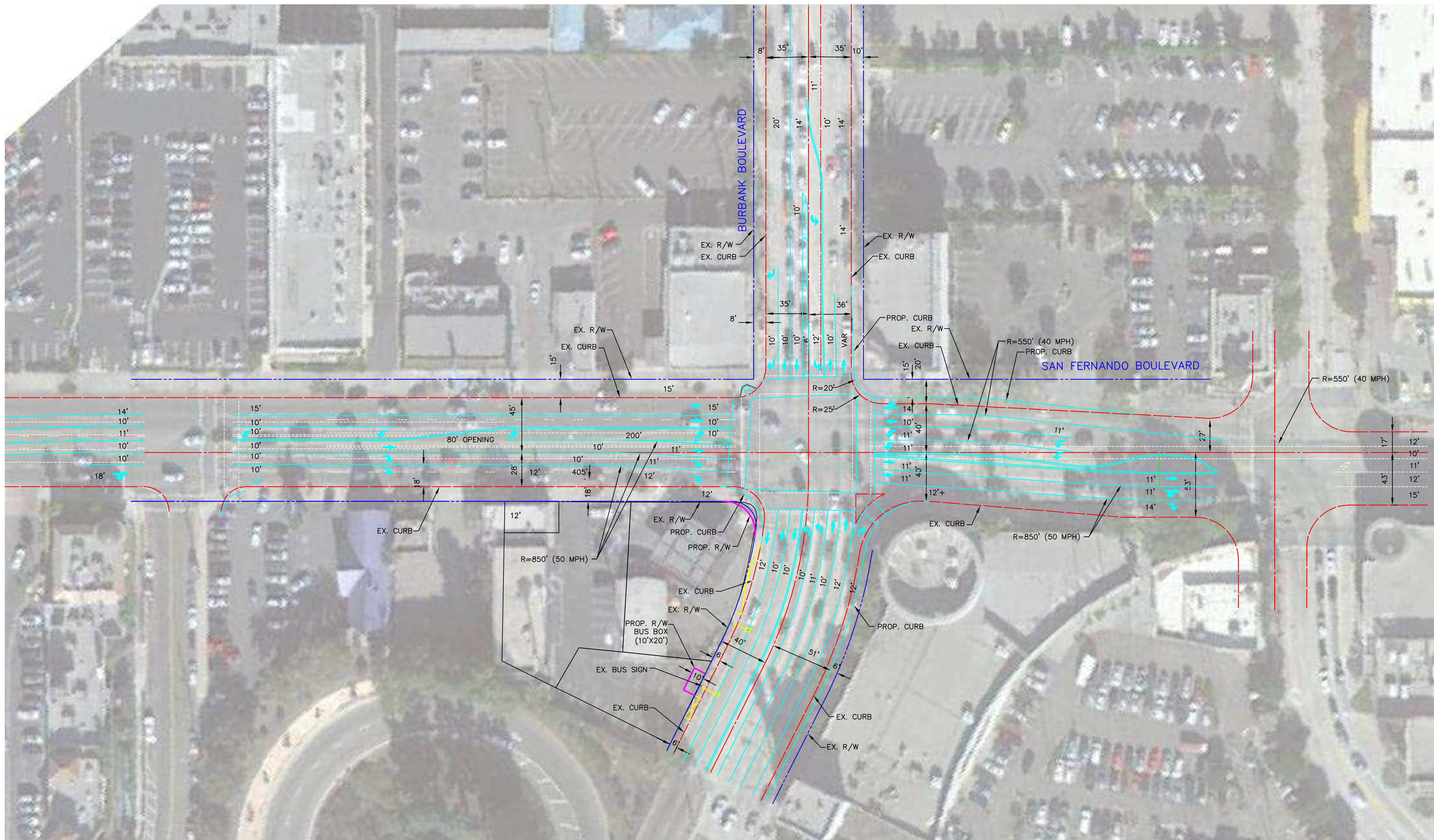
Project Limits



ATTACHMENT C

San Fernando Blvd. / Burbank Blvd. Intersection

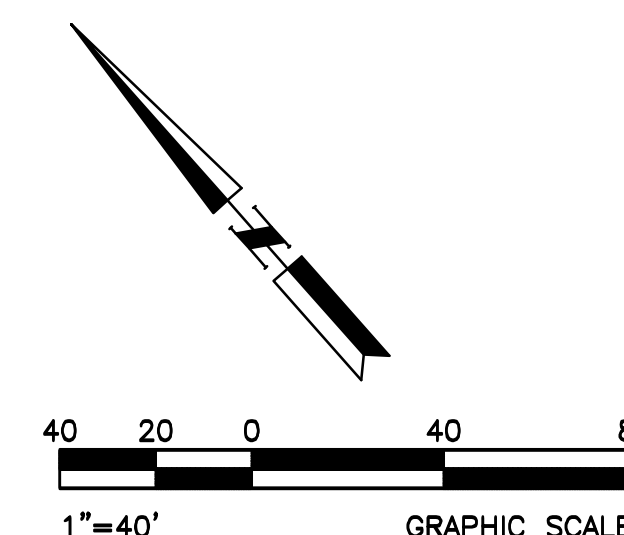
Conceptual Layout Plan



LEGEND

EXISTING R/W	---
EXISTING CURB	---
EXISTING STRIPING	---
PROPOSED R/W	---
PROPOSED CURB	---

**ALTERNATIVE 2A
(W/O TRUCK TEMPLATE)**



**Kimley-Horn
and Associates Inc.**

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5550 Topanga Canyon Boulevard, Suite 250,
Woodland Hills, CA 91367
Tel (818) 227-2790 - Fax (818) 227-2797

REVISION	DESCRIPTION	APP	DATE

DESIGNED	DATE
DRAWN	DATE
CHECKED	DATE
REVIEWED	DATE

RECOMMENDED:
_____ CITY TRAFFIC ENGINEER
APPROVED:
_____ PUBLIC WORKS DIRECTOR

CITY OF BURBANK PUBLIC WORKS DEPARTMENT

SAN FERNANDO BLVD – BURBANK BLVD GEOMETRICS
ALTERNATIVE 5B: NW CORNER ACQUISITION, NO SOUTH SIDE WIDENING

WORK ORDER NO. _____	BID SCHEDULE NO. _____	SHEET ___ OF ___
-------------------------	---------------------------	---------------------

ATTACHMENT D

Caltrans Interstate 5 HOV / Empire Interchange Project

100 Percent Plans and Specifications

Caltrans Plans and Specifications can be downloaded from the Caltrans website at:

http://www.dot.ca.gov/hq/esc/oe/project_ads_addenda/07/07-1218W4/

ATTACHMENT E

City of Burbank Draft Engineering Agreement

DRAFT

**AGREEMENT FOR ENGINEERING SERVICES
SAN FERNANDO BLVD / BURBANK BLVD INTERSECTION IMPROVEMENT PROJECT,
FINAL DESIGN PHASE**

DATE: _____

PARTIES: "OWNER"

THE CITY OF BURBANK, a municipal corporation

Designated Official: Name: Greg Herrmann

Title: Community Development Director

Telephone: (818) 238-5176

Mailing Address: 275 E. Olive Ave.
P.O. Box 6459
Burbank, CA 91510-6459

THE "ENGINEER"

Representative: Name: _____

Title: _____

Telephone: _____

Mailing Address: _____

TERM: Commencement Date: _____

Completion Date: _____

COST OF SERVICES: \$_____

THIS AGREEMENT MUST BE FIRST EXECUTED BY THE ENGINEER OR ITS REPRESENTATIVE AND APPROVED AS TO FORM BY THE CITY ATTORNEY BEFORE THE AGREEMENT MAY BE EXECUTED ON BEHALF OF THE CITY OF BURBANK.

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT FOR ENGINEERING SERVICES ("Agreement") is made and effective this ___ day of _____ 20__, by and between the CITY OF BURBANK, a municipal corporation ("City" or "Owner"), and _____, ("Engineer"). Hereinafter, the Owner and the Engineer may be referred to collectively as "Parties." This Agreement is entered into with respect to the following facts:

A. Owner issued a Sole-Source Request for Proposal ("RFP") to obtain design and construction administration services for the Project known as the **Burbank I5 / Empire Avenue Storm Drain and Pump Station, Final Design Phase** (the "Project") to be located **within the Caltrans Interstate 5 HOV / Empire Interchange project area** within the City of Burbank, California.

B. Owner met and discussed all project requirements with the Engineer to identify a Construction Documents Phase effort, related engineering, construction administration, and other necessary services to complete required bidding documents for the Project.

C. The new Project is currently and generally comprised of:

D. Engineer submitted its Proposal Documents to Owner on _____ ("Proposal Documents").

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, Owner and Engineer mutually agree as follows:

ARTICLE 1 ENGINEER'S GENERAL RESPONSIBILITIES

1.1 Services and Phased Authorizations.

Engineer agrees to perform during the term of this Agreement, each and every service enumerated herein and in the "Scope of Services" document attached to this Agreement as **Exhibit A** ("Services"). The initiation of each phase of Services by the Engineer will commence upon receipt of a written Notice to Proceed from the Owner's Representative designated in **Exhibit B**, authorizing Engineer to proceed to the extent of such written authorization.

1.2 Owner's Separate Consultants.

Owner, at its sole option, may retain other consultants in connection with various phases of design and construction for this Project ("Owner's Separate Consultants"). Owner's Separate Consultants may be designated in **Exhibit B** or, in writing, after execution of this Agreement. Engineer acknowledges and agrees that it will coordinate its Services with Owner's Separate Consultants upon written notice by Owner to Engineer of their designation including, but not limited to, participating in meetings with

the Owner's Separate Consultants without additional charge to Owner. Owner's retention and use of Separate Consultants shall not in any way diminish or supersede Engineer's responsibilities under this Agreement. The Engineer, however, will not be responsible for any errors and omissions contained in the Owner's separate Consultants instruments of service.

1.3 Engineer's Personnel.

1.3.1 Engineer's Project Representative. The Engineer's Project Representative, as approved by Owner, is designated in **Exhibit B**. Engineer's Representative shall: (1) be actively involved throughout all phases of engineering and design, and construction of the Project; (2) maintain design oversight of the Project at all times; (3) have full authority to represent and act on behalf of the Engineer for all purposes under this Agreement; (4) supervise and direct the Services using their professional skill and attention; (5) be responsible for the means, methods, techniques, sequences, and procedures used for the Services of the Engineer and its Consultants; (6) coordinate all portions of the Services; and (7) act as the principal contact with the Owner and all contractors, consultants, engineers, and inspectors on the Project. Notwithstanding the foregoing, Engineer's project representative shall not be personally liable for, nor be a guarantor of, the performance of Engineer's obligations hereunder.

1.3.2 Engineer's Key Personnel. In addition to its designated Representative, Engineer represents to Owner that certain additional Key Personnel, approved by Owner and designated in **Exhibit B** will perform Services required by this Agreement. Owner may at any time elect to add job categories to the Engineer's Key Personnel list.

1.3.3 Engineer's Consultants. Engineer has the option, unless Owner reasonably objects in writing, to employ, at its expense, consultants qualified and licensed to render Services in connection with the Project and to delegate duties to them without relieving Engineer from responsibility under this Agreement. Engineer shall utilize the consultants accepted by Owner and designated in **Exhibit B** ("Consultants") to perform Services. Whenever it is necessary for the Engineer to employ additional Consultants or substitute designated Consultants, that action shall require the prior written acceptance of Owner. Owner will not unreasonably withhold acceptance. The Engineer shall enter into written agreements with the Consultants that require each Consultant to acknowledge and agree that all Services must be performed in accordance with Engineer's obligations under this Agreement and to provide a breakdown and back-up for all Services and costs. Owner shall have the right, but not the obligation, to review and accept the form and substance of Engineer's contracts with Consultants. All primary Consultants (Mechanical, Electrical, Plumbing, Structural, Civil, and others) hired by Engineer shall meet all of the insurance requirements set forth in this Agreement and their contracts shall not contain any waiver or limitation of liability unless approved by Owner in writing. Each Consultant contract will be assigned if necessary by the Engineer to Owner, provided that the assignment is effective only after termination of this Agreement by the Owner and only for those Consultant contracts that the Owner accepts by notifying the Consultant in writing. ***A copy of each written contract between the Engineer and its Consultants shall be provided to the City prior to the commencement of Consultants services to be provided to the Engineer.***

1.3.4 Changes in Engineer's Designated Representative, Key Personnel and Consultants. The Services provided by the Engineer are deemed to be personal services. Engineer understands and acknowledges that its selection by Owner was, in part, based on the Engineer's Representative, Key Personnel, and Consultants identified in **Exhibit B**. The Engineer shall not make changes to its Representative, Key Personnel or Consultants or reduce their responsibilities for this Project without the prior written approval of the Owner. Should circumstances beyond the control of the Engineer result in changes to any person or entity on this team, the Engineer shall submit the credentials of the Engineer's proposed replacement for the Owner's approval, which approval shall not be unreasonably withheld. If Owner determines, in its sole but reasonable discretion, that the performance of any person or entity employed by Engineer is unsatisfactory, then at the written request of Owner, Engineer shall remove, reassign or replace such individual or entity and such individual or entity shall not be reemployed on the Project without the prior written approval of Owner. The Owner shall make reasonable compensation to the Engineer for any adjustments in fee necessary to replace outside consultants identified in Exhibit B.

1.3.5 Qualifications and Licenses. All design, professional, and engineering Services furnished by or on behalf of the Engineer shall be performed by persons qualified to perform the Services assigned to them and shall be under the responsible charge of the Engineer licensed to practice their respective trades or professions, where required by law, and who shall assume professional responsibility for all programming, design, calculations, and related construction documents, hereinafter defined, prepared or furnished by them. Engineer's Representative, Key Personnel, and Consultants shall be experienced in projects of similar nature and complexity to the subject Project and shall be approved by Owner prior to their assignment to the Project. Engineer shall provide current information on the professional background of its Representative, Key Personnel, and Consultants upon request by Owner.

1.3.6 Suitability of Work and Cooperation.

1.3.6.1 Engineer shall furnish Services in accordance with the agreed upon Schedule, hereinafter defined, and ensure all Services are completed in accordance with sound professional principles by licensed professionals where applicable. Engineer shall, upon request of Owner, provide all calculations, data, charts, and other information of any type whatsoever which support the Services performed pursuant to this Agreement. Engineer may not assert as a basis for refusing to provide such information that it is proprietary.

1.3.6.2 Engineer is aware and agrees that Owner has the right to submit the Project Documents, hereinafter defined, of Engineer and its Consultants to independent reviewers. Engineer agrees to fully cooperate with such reviewers if Owner determines that such peer reviews are appropriate. Engineer's obligation to cooperate shall include the obligation to respond in an objective professional manner to requests for information, and if expressly requested by the Owner to enter into a dialogue with the reviewer regarding the reviewer's comments.

1.3.6.3 Engineer realizes that Owner shall have ultimate control over decisions on matters relating to aesthetic effect and any other matters affecting the cost and timing of the Project, as well as matters related to planning for end users of the completed Project. Engineer agrees to work with Owner to implement all of Owner's decisions on these matters. The Engineer will coordinate its work and be responsive to Owner's decisions on matters relating to aesthetic effect, cost, and timing of the Project. In the event agreement cannot be reached between Owner and Engineer, Owner and Engineer agree to immediately proceed to resolve any disagreement pursuant to Article 14.

ARTICLE 2 TIME FOR PERFORMANCE

2.1 Commencement Date and Completion Date.

Time is of the essence for performance of the Services required by this Agreement. Engineer's Basic Services will commence upon Owner's issuance of an initial Notice to Proceed ("Commencement Date"). Completion of the Construction Documents Phase, Construction Commencement and Completion, and Occupancy are cited in Exhibit A, Section I.A. The Completion Date for the Construction Documents Phase shall not be exceeded without the prior written approval of Owner. The Owner will agree to review all submissions in a timely fashion. If the Owner takes longer than fourteen (14) calendar days to review a submission, time for performance of services by the Engineer will be extended on a day-by-day basis for all days in excess of the fourteen (14) calendar day review period. The Completion Date will be adjusted as a result of the additional days taken by the Owner to review the submission.

2.2 Schedule.

Within ten (10) calendar days after the Owner issues the initial Notice to Proceed, the Engineer and Owner shall collaboratively prepare a completion and approval schedule of the performance of Engineer's Services, those of its Consultants and required City approvals for each phase of Services ("Schedule"). This Schedule shall indicate the date by which the Engineer agrees to complete the performance of Basic Services, date of (or, where applicable, periods of elapsed time allowed for) Owner approvals and anticipated approval periods required for public authorities having jurisdiction over the Project, date for Completion of Construction Documents, and date for Completion of Construction Administration. The Schedule shall be consistent with the Contract Time limits set forth herein. Once accepted by Owner, the Schedule will become part of this Agreement and the Engineer will be bound by that Schedule and will not deviate from it without prior written authorization by the Owner. Whether or not deviations from the Schedule have been authorized by the Owner, the Engineer shall update the Schedule as necessary to reflect Owner approved changes or unavoidable deviations, indicating probable impacts of those deviations on the performance of the Engineer's Services and the Project. Nothing in this Agreement shall be construed as a waiver of Owner's right to obtain compliance by the Engineer with the accepted Schedule. Engineer will not be responsible for any delays caused by Owner or those acting under Owner's control. To the extent that such delays are caused by Owner or those acting under Owner's control, Owner recognizes that the Schedule of the Engineer will be extended as a result of such Owner controlled delays.

2.3 Excusable Delay.

Any delays in Engineer's Services caused by the following shall be added to the time for completion of any obligations of Engineer: (1) the actions of Owner or its employees; (2) the actions of those in direct contractual relationship with Owner; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of the Engineer; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of Engineer (hereinafter "Excusable Delay"). Neither the Owner nor the Engineer shall be liable for costs or damages, liquidated or otherwise, to the other on account of such Excusable Delays. The Engineer shall, within twenty-one (21) calendar days of the beginning of any Excusable Delay (unless Owner grants in writing a further period of time to file such notice prior to the date of final payment under the Agreement), notify the Owner in writing of the delay. Owner will then ascertain the facts and the extent of the delay, and grant an extension of Date for Basic Services when, in its sole judgment, the circumstances justify such an extension. Extensions of time shall apply only to that portion of Basic Services affected by the Excusable Delay and shall not apply to other portions of the Services not so affected. The sole remedy of Engineer for extensions of time shall be an extension of the Completion Date, or other interim schedule deadline at no cost to the Owner. If Additional Services are required as a result of an Excusable Delay, the Parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement.

2.4 Extraordinary Measures.

In the event Owner determines that the performance of the Services has not progressed or reached the level of completion required by the accepted Schedule and does not constitute an Excusable Delay, the Owner shall have the right to order the Engineer to implement corrective measures within ten (10) calendar days of Owner's written demand, to expedite the progress of Services, including, without limitation, (1) working overtime, (2) supplying additional personnel or Consultants for the Work or other similar measures (hereinafter referred to collectively as Extraordinary Measures). Such Extraordinary Measures shall continue until the progress of the Services complies with the stage of completion required by the Schedule. The Engineer shall not be entitled to an adjustment in compensation in connection with the Extraordinary Measures required by the Owner pursuant to this Section. The Owner may exercise the rights furnished the Owner pursuant to this Section as frequently as the Owner deems necessary to ensure that the Engineer's performance of Services will comply with the Schedule. If the Engineer fails to implement or commence Extraordinary Measures within ten (10) calendar days of Owner's written demand, Owner shall have the right to terminate the Engineer for cause.

ARTICLE 3 SCOPE OF ENGINEER'S BASIC SERVICES

3.1 Enumeration of Services.

The Engineer's Scope of Basic Services is enumerated in **Exhibit A**, Scope of Services.

3.2 Standard of Care.

Engineer hereby represents that it has the professional experience and skill to perform the Services required to be performed hereunder; that it shall comply with applicable federal, state and local laws, including but not limited to all professional registration (both corporate and individual) for all required basic disciplines; that it shall perform the Services in accordance with generally accepted professional standards and in an expeditious and economical manner; that it has sufficient capital assets and is adequately financed to meet all financial obligations it may be required to incur hereunder and will, if requested by Owner City, submit documentation of such assets and finances.

3.2.1 If, at any time during the performance of its Services or during the maximum period permitted by applicable law after completion of same, it is discovered that Engineer or any of its officers, directors, agents, subcontractors, employees, or Consultants has committed any negligent act, error or omission, which has caused or will otherwise cause unnecessary additional expense to Owner, then Engineer shall, at Owner's request, promptly make all necessary corrections.

3.2.2 Owner recognizes that no set of plans and/or specifications is perfect, that Change Orders can be anticipated, and agrees to act reasonably in its review of any Change Orders submitted on the Work. Owner shall monitor the Project for any errors and omissions that are reasonably attributable to Engineer and/or its Consultants. In the event the Engineer and/or any of its Consultants fails to perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances and the accumulative costs proximately caused by the resulting errors and/or omissions exceed an amount that Owner reasonably believes is unjustified, then Owner may, at its reasonable discretion, file a claim against the Engineer for reimbursement of such costs.

3.2.3 For omissions, Engineer will be liable for difference in cost over and above the cost of the work if originally performed. Owner recognizes that it is only the "delta cost" that Engineer may be responsible for, i.e., the difference in cost between the original work if properly performed, and, the work ultimately performed as a result of any omission. For errors, Engineer will be liable for the cost of the work necessary to correct the error. Correction of errors and omissions shall include, but not be limited to, additional architectural and engineering services, design documentation, travel, demolition, removal, relocation, manufacture, fabrication, construction, testing, and installation proximately caused by said error and omissions.

3.3 Laws and Regulations.

3.3.1 Drawings and Specifications. Engineer shall cause all graphic and pictorial documents showing the design, location, and dimension of the work (“Drawings”) and written requirements for materials, equipment, systems, standards, and workmanship for construction of the work (“Specifications”) to conform to applicable requirements of federal, state and local laws, rules and regulations, in effect as of the time the Drawings and Specifications are prepared or revised during the latest phase of the Services described herein. Engineer has an obligation to monitor changes to applicable laws, rules, and regulations and to promptly advise Owner of any changes that potentially may impact the Project. Any significant revisions made necessary by legislative enactment of changes in such laws, rules and regulations after this time shall be compensated as Additional Services. Engineer shall cause the necessary copies of such Drawings and Specifications to be filed with any governmental bodies with approval jurisdiction over the Project.

3.3.2 Americans with Disabilities Act. Engineer will use its professional efforts to interpret all applicable federal, state and local laws, rules and regulations with respect to access, including those of the Americans with Disabilities Act of 1990 (“ADA”) and as contained in the California Code of Regulations. The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. Owner acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations. Engineer, therefore, will use their reasonable professional efforts to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project. Engineer shall inform Owner of its interpretations of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules and regulations, as well as any other issues which are subject to conflicting interpretations of the law. Unless Engineer brings such inconsistencies and conflicting interpretations to the attention of the Owner and requests Owner’s direction on how to proceed, the Engineer’s interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Engineer, and the Engineer shall correct all Drawings, Specifications and other documents prepared for the Project at no additional cost if Engineer’s interpretations are shown to be incorrect.

3.3.4 Review of City’s General Conditions. Engineer shall be responsible for reviewing the City’s standard construction agreement for this type of project and shall not duplicate in any way, or submit work product that is in conflict with, the General Conditions of such agreement. Any submitted work product that either duplicates or is in conflict with the General Conditions of City’s standard construction agreement for this type of project shall be rejected and corrected at no cost to the City.

ARTICLE 4 ADDITIONAL SERVICES

4.1 Definition.

The Owner, without invalidating this Agreement, may make changes, additions, and deletions in the Scope of Services or otherwise amend this Agreement. All changes in the Services shall be performed under applicable provisions of the Agreement. Except in an emergency endangering life or property, no Additional Services or change in scope of Services shall be made except pursuant to a written Amendment to this Agreement and no claim for additional compensation or an extension of the Completion Date shall be valid unless so ordered by Owner. At Owner's request, Engineer may be asked to perform services not otherwise included in this Agreement, not included within the Basic Services enumerated herein and in **Exhibit A**, and/or not customarily furnished in accordance with generally accepted architectural practice. As used herein, "Additional Services" shall mean: (1) any services determined by Owner to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary for the Engineer to perform at the execution of this Agreement; or (2) any services listed as Additional Services or Excluded Services in **Exhibit A** attached hereto. Engineer shall not perform, nor be compensated for, Additional Services without prior written authorization from Owner and without an agreement between the Owner and Engineer as to the compensation to be paid for such Additional Services. Owner shall pay Engineer for completion of any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Engineer. Such Additional Services shall not include any redesign or revisions to Drawings, Specifications or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations or codes of which Engineer was aware or should have been aware pursuant to the laws and regulations provision of this Agreement above.

4.2 Owner's Authorization of Additional Services.

4.2.1 Minor changes in the services that involve no extra cost, may be approved, authorized, and ordered by the Owner's Representative designated in **Exhibit B**. No other change shall be made nor Additional Services performed except by Amendment to the Agreement and: (1) with prior written approval from the Owner; and (2) the change does not (a) exceed 10% of the original Cost of Services or \$50,000, whichever is **less**; or (b) cause the total compensation to Engineer, including all Additional Services and Reimbursable Expenses, to exceed the budgetary appropriation made by resolution of the Owner's City Council. If the Additional Services exceed any of the preceding amounts, the Owner's City Council must approve the Amendment.

4.2.2 Owner may issue a request, in writing, to the Engineer, describing a proposed addition, deletion or change to the Service and requesting the Engineer to submit a pricing proposal, in a format acceptable to Owner, within fifteen (15) calendar days after Owner's issuance of the request, or such time as may be reasonably necessary to ensure the extent of the scope change is both clear and can be reasonably priced and the time extension, if any, be reasonably identified. The Engineer's pricing proposal shall include an analysis of impacts to cost and time, if any, to perform the addition, deletion or change in Services, as applicable, including the effects and impacts, if any, on unchanged Services. The Engineer's pricing proposal

shall provide sufficient detail and necessary documentation support in a format reasonably acceptable to the Owner for Owner's review and approval. If Engineer fails to submit a price proposal within such time period, it shall be reasonably presumed that the change described will not result in a change to Engineer's compensation or Completion Date and the change shall be performed by Engineer without cost adjustment. Owner's written request for a pricing proposal does not authorize the Engineer to commence performance of the described services. If the Parties reach agreement on the cost of pricing such change(s), an Amendment to the Agreement will be issued.

4.3 Engineer Initiated Request for Additional Services.

4.3.1 If the Engineer alleges that instructions issued after the effective date of the Agreement will result in an increase to the compensation or completion of the Engineer's Services or the Engineer otherwise becomes aware of the need for or desirability of additional services, a request for additional services may be submitted to the Owner in writing, in a format acceptable to Owner, and must specify the reasons for such change, including relevant circumstances and impacts on the Schedule. Engineer shall submit a pricing proposal concurrently with the request for additional services. Engineer may request additional compensation and/or time but not for instances that occurred more than sixty (60) calendar days prior to the request for additional services. Engineer's failure to initiate a request for additional services within such period shall be deemed a waiver of the right to adjustment of the compensation or time for completion for the alleged change. Any request for additional services that is approved by Owner will be incorporated in an Amendment. If the request for additional services is denied but the Engineer believes that it does have merit, the Engineer may submit a claim in accordance with the procedures set forth herein.

ARTICLE 5 OWNER'S AUTHORITY AND RESPONSIBILITIES

5.1 Designated Representative.

The Owner's Representative for this Project, who shall have the power to act on behalf of the Owner for all purposes under this Agreement except with respect to authorization of Additional Services, is designated in **Exhibit B**.

5.2 Project Requirements.

Prior to commencement of Engineer's design services, Owner shall provide an affirmative statement setting forth the design objectives, constraints and criteria for the Project, including space requirements and relationships, flexibility and expandability, special equipment and systems, and site requirements.

Prior to commencement of Engineer's design services, Owner shall set forth and approve a specific project budget. The budget for the project shall not be significantly increased or decreased, nor shall contingencies be included therein without Engineer's agreement to a corresponding change in the scope and quality.

5.3 Site Information.

The Owner shall furnish copies of all current surveys, utility plans, street and roadway plans, geotechnical surveys, or other documents that describe Owner's utility system. The survey and utility system information shall include, as applicable, grades and lines of streets, alleys, pavements,; adjacent drainage; rights-of-way, restrictions, easements, encroachments, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All survey information shall be referenced to a Project benchmark.

Owner shall provide the results of all tests, inspections, and reports regarding the Project in its possession and shall provide Engineer with written notice of any fault or defect in the Project (including errors, omissions or inconsistencies in the Instruments of Service) of which Owner becomes aware.

Owner shall assist Engineer in obtaining all current design plans for all freeway, street, railroad, and utility structures related to the I-5 HOV / Empire Avenue interchange project from the California Department of Transportation for use in completing construction plans and documents.

ARTICLE 6 CONSTRUCTION COST

6.1 Definition.

6.1.1 The Construction Cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all construction related elements of the Project designed or specified by the Engineer.

6.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment and systems designed, specified, selected or specially provided for by the Engineer, including costs for management and/or supervision of construction or installation provided by the general contractor, plus a reasonable allowance for general conditions and requirements, overhead, profit, bonds, and insurance. In addition, a reasonable allowance for construction contingencies shall be included for market conditions at the time of bidding and for potential changes in the Work.

6.1.3 Construction Cost does not include the compensation of the Engineer and the Engineer's Consultants, the costs for land, rights-of-way, financing, Owner related project management and/or construction management, and other soft costs that are generally the responsibility of the Owner as provided in Article 5.

ARTICLE 7 USE OF ENGINEER'S INSTRUMENTS OF SERVICE

7.1 Project Documents.

The Drawings, Specifications, sketches, calculations, estimates and other documents prepared pursuant to this Agreement, in a reproducible computer media format, including AutoCAD , ("Project Documents") are Instruments of Service. Although the official copyright in all Project Documents shall remain with Engineer and applicable Consultants, the Project Documents shall be the sole property of Owner and shall be delivered to Owner whenever requested. Engineer shall keep such documents and materials on file and available for audit by the Owner for at least three (3) years after the termination of this Agreement, whichever is later. Engineer may make duplicate copies of such materials and documents for its files or for such other purposes as may be authorized in writing by the Owner.

7.2 License.

This Agreement creates a non-exclusive and perpetual license for Owner to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. Engineer shall require any and all subcontractors and Consultants to agree in writing that Owner is granted a non-exclusive and perpetual license for the work product of such subcontractors or Consultants performed pursuant to this Agreement. On execution of this Agreement, the Engineer grants to the Owner a non-exclusive license to reproduce the Engineer's instruments of service solely for purposes of construction, using and maintaining the Project provided that Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Engineer and Engineer's Consultants shall be deemed the Authors and Owners of the respective instruments of service and shall retain all common law, statutory and other reserved rights, including copyrights.

7.3 Re-Use of Project Documents.

7.3.1 In the event this Agreement is terminated prior to completion of the Project, provided Owner has complied with all obligations, including prompt payment of all sums when due, under this Agreement, the foregoing license shall continue in force and effect, permitting Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections, or additions to the Instruments of Service solely for the purposes of constructing, repairing, renovating, modernizing, replacing, reconstructing, or expanding the Project.

7.3.2 In authorizing such similarly credentialed professionals to utilize the Instruments of Service, Owner shall direct each such professional in writing that such professional shall not rely on the information contained in the Instruments of Service, but shall make independent investigations to ascertain the validity of such information

7.3.3 The Owner shall protect, defend, indemnify and hold Engineer and Engineer's Consultants harmless from claims and liability for injury, damage or death resulting from re-use of the Instruments of Services.

ARTICLE 8 INDEMNITY

8.1 Engineer's Obligation.

Consultant shall, to the fullest extent permitted by law, indemnify Client as required pursuant to California Civil Code § 2782.8 and Consultant shall maintain insurance that will pay for reasonable attorney's fees as part of that obligation to indemnify Client.

The Consultant's obligations under this Section of the Agreement shall survive the termination of the Agreement and the completion of the performance of the work required by the Agreement.

8.2 City's Obligation.

The City agrees to defend, indemnify, and hold harmless, to the maximum extent permitted by law, the Engineer, its Consultants and all of their respective shareholders, officers, employees, agents, representatives and their successors and assigns ("Indemnitees"), from any and all liability, loss, suit, claim, damage, cost, judgment and expense (including attorneys fees and costs of litigation) arising from any negligent conduct of the City, its agents, employees, or representatives in connection with the performance of this Agreement. Notwithstanding the foregoing, City's obligation to indemnify the Indemnitees for any judgment, decree or arbitration award shall extend only to the percentage of negligence attributed to City, its agents, employees, or representatives with regard to such liability, suit, claim, damage, cost, judgment, loss and expense. Further, the City's obligation to defend the Indemnitees applies only to the extent the claim or suit against the Indemnitees arises with respect to allegations of negligent conduct of the City, its agents, employees, or representatives.

ARTICLE 9 INSURANCE

9.1 General.

9.1.1 Prior to commencing any services hereunder, Engineer and its Consultants shall obtain and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this Agreement or such further period as specified herein, providing coverage for claims arising from or related to Services to be performed under this Agreement.

9.1.2 The policies shall state that they afford primary coverage. Engineer shall: (1) include all Consultants as insureds under its own policies; or (2) shall furnish separate insurance for each Consultant; or (3) provide evidence that the Consultant has, in force, all insurance required by this section.

9.1.3 Insurance shall be placed with insurers authorized to transact business (i.e. admitted) in the State of California so as to provide access to the California Guaranty Association and other state regulation or have a "Best's Guide" rating of no

less than B+ and having been approved as to financial condition in writing by Owner prior to execution of this Agreement.

9.1.4 Prior to commencement of performance, Engineer shall furnish Owner with a Certificate of Insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificate(s) must be in a form approved by Owner. Owner may require complete, certified copies of any or all policies at any time. All liability insurance deductibles must be identified in the Certificates of Insurance provided to the Owner. The deductibles for all insurance policies required herein shall be considered a form of self-insurance.

9.1.5 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) calendar days prior written notice to Owner.

9.1.6 Failure to maintain required insurance at all times shall constitute a default and material breach of this Agreement. In such event, Engineer shall immediately notify Owner and cease all performance under this Agreement until further directed by the Owner. In the absence of satisfactory insurance coverage, Owner may, at its option: (a) procure insurance with collection rights for premiums, attorney's fees and costs against Engineer by way of set-off or recoupment from sums due Engineer; (b) immediately terminate this Agreement; or (c) self insure the risk, with all damages and costs incurred, by judgment, settlement or otherwise, including attorney's fees and costs, being collectible from Engineer, by way of set-off or recoupment from any sums due Engineer.

9.2 Professional Liability.

Engineer shall obtain and maintain, for the duration of this Agreement and for a period of three (3) years following completion of construction of the Project, to the extent commercially available professional liability (errors and omissions) standard practice policy such coverage shall be in the minimum amount of **\$1,000,000** per claim and in the annual aggregate of **\$2,000,000**.

9.3 Automobile.

Automobile Liability with minimum limits of at least **\$100,000/300,000/50,000** for hired and non-owned liability coverage if written on a Commercial automobile liability form.

9.4 General Liability.

Comprehensive General Liability with minimum limits of at least **\$2,000,000** combined single limits with coverage on an occurrence basis. Premises/Operations and Personal Injury coverage is required. The City, the City Council, their officers, employees and agents must be endorsed on the policy as additional insureds as respects liability arising out of the Engineer's performance of this Agreement. The endorsement shall require the insurance company to provide the City a minimum of thirty (30) calendar days notice of cancellation of the policy and ten (10) calendar days

notice for non-payment of premium. All endorsements to the insurance policy must be approved as to form by the City Attorney's Office.

9.4.1 If Engineer employs consultants as part of the services rendered, Contractor's Protective Coverage is required.

9.5 Worker's Compensation.

Engineer shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job. Compliance is accomplished in one of the following manners:

9.5.1 Provide copy of permissive self-insurance certificate approved by the State of California; or

9.5.2 Secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of **\$1,000,000** per accident, or

9.5.3 Provide a "waiver" form certifying that no employees subject to the Labor Code's Workers' Compensation provision will be used in performance of this Agreement.

9.6 Engineer's Consultants' Insurance.

Engineer shall cause its Consultants to obtain and maintain for the duration of this Agreement or such further period as specified herein, all of the coverages described in this Article. Engineer warrants that it shall require all its Consultants to name both the Engineer and the Owner as additional insureds on endorsements to the Consultants' insurance policies.

ARTICLE 10 PAYMENTS TO THE ENGINEER

10.1 Payments on Account of Basic Services.

10.1.1 Owner shall make payments on a monthly basis for Services properly completed in accordance with the Schedule for Basic Compensation provided in **Exhibit C**. In order to receive payment, Engineer shall present to Owner an itemized statement which indicates Services performed by Engineer and its Consultants, percentage of Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of Services provided since the initial Commencement Date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period and other information reasonably requested by Owner. If the Basis of Payment is a stipulated sum, payment shall be made on the percentage of Services completed. If the Basis of Compensation is Hourly Billing Rates, the statement shall identify the individual performing Services, a brief description of the services, the amount of time expended (in a minimum increment of

0.10 hour) and the hourly rate for such services. No deductions shall be made from Engineer's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the work other than those for which Engineer has been adjudged in a court of law to be liable. Payment shall be made for Services performed provided, however, that the amount paid to Engineer shall never exceed the amounts authorized by the Schedule for Basic Compensation or any not-to-exceed amount for additional services as provided in **Exhibit C**. Owner shall, within thirty (30) calendar days of receiving Engineer's itemized statement, pay all approved charges therein.

10.1.2 Reimbursable Expenses. Engineer shall, at its sole cost and expense, furnish all necessary and incidental labor, materials, supplies, facilities, equipment, and travel which may be required for furnishing Services pursuant to this Agreement within the Lump Sum Amount identified in Article 11. Engineer shall be reimbursed for the expenses identified as Reimbursable in **Exhibit C** which are reasonably and necessarily incurred by Engineer in the interest of the Project but in no event shall such Reimbursable Expenses exceed \$30,000 without prior written approval by Owner in accordance with Article 4 herein. Engineer shall obtain Owner's prior written approval for reimbursement of: 1) expedited delivery charges not due to delay by Engineer; 2) extraordinary or out-of-town travel expenses; 3) document reproduction costs in excess of \$250; and 4) any individual cost, fee or expense in excess of \$500.

10.2 Payments on Account of Additional Services.

10.2.1 Procedures for payments for Additional Services may be made based on percentage completion of a Lump Sum Amount or according to hourly rates provided that, in any event, Additional Services shall be separately itemized on Engineer's statement. Engineer expressly waives any right to payment for any Additional Services rendered if Engineer does not give written notice of its claim that the services are Additional Services prior to rendering such services and if such services are not billed as Additional Services within ninety (90) calendar days following their initiation. The method for computing the amount of Additional Services is described in **Exhibit C**.

10.2.2 Hourly Rates for compensation in **Exhibit C** include the direct salaries and wages of the Engineer's personnel and its Consultants engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, including, but not limited to, employment taxes and other statutory employee benefits, insuring sick leave, holidays, vacations and employee retirement plans, allocable to this Project as well as overhead and profit. Engineer's hourly rates shall include all professional time and all clerical, administrative, overhead, insurance, reproduction, telephone, and transportation expenses. Engineer's hourly rates, including the Engineer's Consultant rates accepted by the City, shall remain constant throughout the duration of the Project, including in-house staff that may be promoted.

10.3 Payments Withheld.

To the extent the Owner has any rights to withhold disputed amounts on payment pursuant to Civil Code § 3320, the Owner agrees to abide by all provisions of

Civil Code §3320, and withhold only payments authorized therein. The Owner further agrees to be governed by all provisions of §3320.

10.3.5 Such other sums as the Owner is entitled to recover from the Engineer.

ARTICLE 11 OTHER CONDITIONS OR SERVICES

11.1 Independent Contractor.

11.1.1 Owner retains Engineer on an independent contractor basis and not as an agent or employee of Owner. Engineer has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by Engineer in the performance of the Services hereunder. Engineer shall be solely responsible for, and shall indemnify, defend and save Owner harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, and regulations.

11.1.2 Engineer acknowledges that any Consultants, subcontractors, agents or employees employed by Engineer shall not, under any circumstances, be considered employees of the Owner, and that they shall not be entitled to any of the benefits or rights afforded employees of Owner, including, but not limited to, sick leave, vacation leave, holiday pay, benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

11.2 Assignment.

The Owner and Engineer, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Engineer shall not assign this Agreement without the Owner's written consent. The Owner may freely assign its rights hereunder, without limitation, to a separate entity and Engineer agrees, upon such entity's request, to continue and complete performance of the services upon payment of any undisputed outstanding amounts due Engineer for services performed provided, however, that Owner shall not be relieved of its obligations under this Agreement and that the assignee shall agree in writing to perform all of the obligations of Owner hereunder. Any entity that shall succeed to the rights of Owner shall be entitled to enforce the rights of Owner hereunder. If requested by such entity, Engineer will execute a separate letter or other agreement with such entity, further evidencing Engineer's commitment to continue performance of this Agreement.

11.3 Correction of Work.

Engineer shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, goods, and other services required by this Agreement, without additional cost to the Owner. The performance or acceptance of services furnished by Engineer

shall not relieve the Engineer from the obligation to correct subsequently discovered defective, inaccurate or incomplete tasks.

11.4 No Waiver or Estoppel.

The Owner's waiver of any term, condition, breach or default of this Agreement shall not be considered to be a waiver of any other term, condition, default or breach. Owner shall not be precluded or estopped by any return, certificate, or approval made under any provisions of this Agreement before or after final completion of the Project and final payment to Engineer, from showing that any such return, certificate or approval is untrue, incorrect or improperly made or from demanding recovery from Engineer such damages as Owner may sustain as a result of Engineer's fault.

11.5 Interpretation.

11.5.1 This Agreement shall be governed by the laws of the State of California.

11.5.2 If any provision in this Agreement is held by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining provisions shall nevertheless continue in full force and effect as fully as though such invalid, illegal, or unenforceable portion had never been part of this Agreement.

11.5.3 Each and every provision and clause required by law to be inserted in the Contract Documents shall be deemed to be inserted herein.

11.6 Duplicate Originals.

There shall be three (3) fully signed sets of this Agreement, each of which shall be deemed an original.

11.7 Maintenance and Inspection of Records

Upon reasonable advanced notice, the Owner, or its authorized auditors or representatives, shall have access to and the right to audit and reproduce any of the records to the extent the Owner deems necessary to insure it is paying only the amounts to which Engineer is properly entitled under the Agreement or for other purposes relating to the Agreement.

11.7.1 The Engineer shall maintain and preserve all such records for a period of at least three (3) years after termination of the Agreement.

11.7.2 In the event the Owner desires to perform any audit of the Engineer's ledgers for this Project at Owner's expense, the Engineer will cooperate with such audit by making all its records available.

11.8 Conflict of Interest.

Engineer hereby represents, warrants, and certifies that no member, officer or employee of the Engineer is a director, officer or employee of Owner, or a member of any of its boards, commissions or committees except to the extent permitted by law.

11.9 Notices.

11.9.1 Any notice or demand to be given by one party to the other shall be given in writing and by personal delivery or prepaid first-class, registered or certified mail, addressed as follows:

If to the Owner:

**City Clerk
City of Burbank
275 E. Olive Avenue
P.O. Box 6459
Burbank, CA 91510-6459**

**cc: Greg Herrmann
Interim Community Development Director**

If to the Engineer:

Notice simply to the City or any other City department is not adequate notice.

11.9.2 Any such notice shall be deemed to have been given upon delivery, if personally delivered, or, if mailed, via Certified Mail, upon receipt or upon expiration of five (5) calendar days from the date of posting, whichever is earlier. Either party may change the address at which it desires to receive notice upon giving written notice of such request to the other party.

11.10 Publicity and Confidentiality of Material.

11.10.1 The Engineer and its agents and employees shall not engage in any communication or correspondence with persons not directly involved in the construction of the Project, concerning any aspect of the construction of the Project, without the express written consent of Owner. All communications to the media, or in response to inquiries made by private citizens, shall be issued solely through the Owner. Upon completion of the Project, the Owner will not unreasonably withhold its approval of Engineer communicating with media and others relative to this Project.

11.10.2 Engineer may, during the course of providing its Services hereunder or in relation to this Agreement, have access to and acquire knowledge regarding materials, data, systems and other information of or with respect to Owner which may not be

accessible or known to the general public (“Confidential Information”). Confidential Information that is specific as to techniques, equipment, processes, products, concepts or designs, etc. shall not be deemed to be within the knowledge of the general public merely because it is embraced by general disclosures in the public domain. Any knowledge acquired by Engineer from such Confidential Information or otherwise through its engagement hereunder shall not be used, published or divulged by Engineer, to any other person, firm or corporation, or used in any advertising or promotion regarding Engineer or its services, or in any other manner or connection whatsoever without first having obtained the written permission of Owner, which permission Owner may withhold in its sole discretion. Engineer specifically agrees that the foregoing confidentiality obligation applies to, but is not limited to, any information disclosed to Engineer in any document provided to Engineer by Owner which may not be accessible or known to the general public, including but not limited to, a Request for Proposal, Request for Estimate, Request for Quotation and Invitation to Bid. The provisions of this Article shall survive the expiration or earlier termination of this Agreement.

Engineer’s duty to refrain from disclosing information designated as “Confidential Information” shall not apply if withholding such information would violate the law, create the risk of significant harm to the public or prevent Engineer from establishing a claim or defense in an adjudicatory proceeding. In the event Engineer determines that disclosure is necessary for the foregoing reasons, they shall immediately notify Owner of such determination in order that Owner may, at its option and its sole expense, seek in a timely fashion a protective order, or such other remedy, as it may determine appropriate. In the event that disclosure of any Confidential Information is ordered by a court or administrative agency, Engineer shall give Owner not less than ten (10) business days notice, in writing, of such disclosure.

ARTICLE 12 TERMINATION OR SUSPENSION

12.1 Termination by Owner for Cause.

Owner shall have the right to terminate Engineer under this Agreement upon written notice, effective immediately unless otherwise provided in said notice, if Engineer shall fail to commence the Services in accordance with the provisions of this Agreement or fail to diligently perform the Services, fail to use acceptable personnel or Consultants, fail to perform any of its obligations under this Agreement or any other Contract Document, or fail to make prompt payments to its Consultants. Any such act by Owner shall not be deemed a waiver of any other right or remedy of Owner. If Owner terminates Engineer for cause, Owner agrees to immediately proceed with a Meeting of Principals to determine a proper accounting for all services rendered by Engineer. If the Meeting of Principals fails to result in an appropriate Agreement as to solution of costs for termination, Owner and Engineer agree to proceed with the mediation, arbitration, or legal proceedings as set forth in Article 14.

12.2 Termination by Owner for Convenience.

12.2.1 Owner shall have the right to terminate Engineer under this Agreement for its convenience without regard to fault or breach upon written notice, effective immediately unless otherwise provided in said notice. In the event of such termination, Owner shall pay as the sole amount due to Engineer in connection with this Project sums due hereunder for Services performed to date plus reasonable demobilization costs incurred due to such termination. Such sums will be due and payable on the same conditions as set forth for final payment to the extent applicable. Upon receipt of such payment, the parties hereto shall have no further obligations to each other except for Engineer's obligation to indemnify Owner and maintain any insurance as provided for in this Agreement. It is understood and agreed that no fee, anticipated profit or other compensation or payment of any kind or character shall be due or payable for unperformed Services regardless of the basis of termination and the inclusion of this provision within this subsection shall in no way limit its application to termination under this subsection. Engineer agrees that each agreement with any Consultant entered into by it will reserve for Engineer the same right of termination provided by this subsection.

12.2.2 Upon a determination that any termination of Engineer or its successor in interest was wrongful, such termination will be deemed converted to a termination for convenience pursuant to the proceeding provisions hereof and Engineer's remedy for wrongful termination in such event shall be limited to the recovery of the payments permitted for termination for convenience as set forth above.

12.2.3 The rights and remedies of Owner and Engineer in the event of termination herein set forth shall be non-exclusive, and shall be in addition to all the other remedies available at law or in equity.

12.3 Engineer's Duty Upon Termination.

If Owner terminates Engineer under this Agreement or if Engineer terminates a Consultant with Owner's approval, Engineer shall deliver all Deliverables, documents, records, reports, logs, diaries, estimates, contractor submittals and other items produced or purchased pursuant to this Agreement by Engineer and/or its Consultants, as applicable, to Owner in an organized, usable form with all items properly labeled to the degree of detail specified by Owner. No compensation shall be due Engineer until it complies with the requirements of this paragraph.

12.4 Partial Deletion or Suspension of Services.

12.4.1 Engineer agrees that the Owner may determine whether any or all of the Services described in this Agreement shall be deleted or its performance suspended without electing to terminate the Engineer's performance under the Agreement and without any penalty being incurred by Owner. Any such partial deletion or suspension of the Services shall in no way void or invalidate this Agreement nor shall it provide Engineer any basis for seeking payment from Owner for Services deleted or suspended except to the extent such Services have already been performed and are otherwise billable under this Agreement, and Owner shall have the right to later have any Services suspended or deleted from this Agreement performed by others without any penalty to

Owner. In the event of any such partial or complete deletion or suspension, Owner shall furnish Engineer with prompt written notice thereof and Owner shall be entitled to have as its property all documents, records, logs, drawings, calculations, reports and other data prepared by or assets purchased by Engineer or Consultants, of any tier, and shall pay Engineer therefore. The Owner may require Engineer to perform Services later during the term of this Agreement which were earlier deleted or suspended. Engineer shall not resume any such Services until the Owner has issued a written notice to proceed or a change order. Engineer shall identify the sequence of its deliverables for the Owner's review and acceptance. In the event Owner directs Engineer to perform work out of sequence, additional Engineerural and/or Engineering fees may be due the Engineer.

12.4.2 If the Project is suspended by Owner for more than thirty (30) consecutive calendar days, Engineer shall be compensated for services performed prior to notice of such suspension, as well as expenses incurred in the interruption and resumption of Engineer's services.

12.4.3 If the Engineer's services are suspended for more than one hundred and eighty (180) consecutive calendar days, Engineer shall be able to terminate this Agreement.

12.5 Manner of Payment Upon Termination, Partial Deletion or Suspension of Services.

Upon any deletion, suspension or termination by the Owner and upon receipt of a final certified invoice with one (1) original and two (2) copies, Owner shall pay Engineer the amount, excluding disputed amounts, as determined by the Owner, due for the Services performed prior to such deletion, suspension or termination, less amounts previously paid.

12.6 If Owner fails to make payments to Engineer in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at Engineer's option, cause for suspension of performance of services.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Notice of Dispute Regarding Engineer's Services

If Engineer and Owner cannot agree as to the quality or acceptability of the Services, or whether Additional Services are required and/or the compensation payable to Engineer under this Agreement, Owner or Engineer may promptly give to the other a written notice thereof and, within sixty (60) calendar days after the event giving rise to the dispute, Engineer and Owner shall each prepare a report which supports their respective positions and file the same with the other party. Engineer's report shall include any possible claims against Owner, including the amount of additional compensation requested. Thereafter, the Owner shall, with reasonable diligence, determine the quality or acceptability of Services, or whether a change in the Services is required, and/or the compensation payable to Engineer. Submittal of the matter to Owner, as required by this

Section, is a prerequisite to the right of Engineer to contest any such matter in judicial or other proceedings and Engineer expressly waives any right to so contest any decision(s) of Owner unless it has first presented the matter to Owner and within the time limits as provided herein.

13.2 Resolution of Disputes

Subject to the provisions of Article 10.1.1, to the extent there is any disagreement as to any services rendered by the Engineer pursuant to this Contract, the Owner and Engineer agree to immediately convene a Meeting of Principals. The Meeting of Principals will require the attendance of Mike Rudinica, Principal In Charge on behalf of Engineer, and the attendance of the Director of Community Development and/or their designee on behalf of the Owner. The Principals will attempt to resolve any question arising out of, or related to disagreement on an informal basis. If the Meeting of Principals does not resolve the issue, any claim, dispute or other matter in question arising out of, or related to this Agreement shall be subject to mediation as a condition precedent to the filing of any arbitration or legal or equitable proceeding by either party. Arbitration must be agreed upon by both parties before arbitration proceeds. In the absence of any agreement to submit to binding arbitration, all parties reserve their common law and statutory rights to proceed with litigation. All efforts will be made by both the Engineer and the Owner to avoid any formal mediation, arbitration, or other legal proceeding.

The Owner and Engineer shall endeavor to resolve claims, disputes and other matters in question between them first by Meeting of Principals. Next, by mediation, and only thereafter, by arbitration, (if agreed upon), or by the filing of a subsequent lawsuit. If mediation is required, the parties agreed to mediate in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, or, upon any other rules the parties agree to. If no agreement to mediation is reached, request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a Demand for Arbitration (if agreed upon by both parties) but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless for a longer period of agreement of the parties or Court Order.

The Parties shall pay the Mediator's fee and any filing fees equally. Mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as Settlement Agreements in any Court having jurisdiction thereof.

13.3 Failure or Refusal to Mediate Disputes

If, for any dispute or claim to which this Section applies, any party commences an action without first attempting to resolve the matter through Informal Dispute Resolution, or refuses to participate in Informal Dispute Resolution after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. This Section 11.5 shall not apply in the case of a party acting in accordance with Section 11.4 hereof where they

reasonably believe that acting in a prompt manner is necessary in light of the circumstances to protect their interests.

ARTICLE 14 ENUMERATION OF CONTRACT DOCUMENTS

14.1 Contract Documents.

14.1.1 This Agreement represents the entire and integrated agreement between the Owner and the Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written amendment signed by both Owner and Engineer.

14.1.2 The “Contract Documents,” except for amendments issued after execution of this Agreement, consist of the following documents, all of which are either attached hereto as Exhibits or are incorporated into this Agreement by this reference, with the same force and effect as if same were set forth at length herein;

This Agreement, including all exhibits and attachments:

Exhibit A – Scope of Services;

Exhibit B – Designated Representatives, Key Personnel, and Consultants;

Exhibit C – Basic Compensation, Hourly Rates and Reimbursable Expenses;

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

The Engineer hereby represents and warrants to the Owner that the Engineer has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement, and that signature and execution of this Agreement has been duly authorized.

"ENGINEER"

"OWNER"

Signature

Signature

Name (please print)

Greg Herrmann

Name (please print)

Title

Community Development Director

Title

ATTEST:
Office of the City Clerk

Approved as to Form and Legal Content:
Amy Albano, City Attorney

Margarita Campos
City Clerk

By: _____
Signature

Name

Title

EXHIBIT A
SCOPE OF SERVICES

**1. EXHIBIT B – DESIGNATED REPRESENTATIVES,
KEY PERSONNEL AND CONSULTANTS**

I. BY ENGINEER

- A. Engineer's Project Representative is:
- B. Engineer's Key Personnel are:

Title

Name

II. BY OWNER

- A. Owner's Project Manager is: Greg Herrmann, Community Dev. Director
- B. Owner's Representative is: David Kriske, Deputy City Planner

**EXHIBIT C – BASIC COMPENSATION, HOURLY RATES
AND REIMBURSABLE EXPENSES
FOR ENGINEER AND ITS CONSULTANTS**

1. Basic Compensation.

For Basic Services, as described herein and in **Exhibit A**, Basic Compensation shall be computed on the basis of percentage completion of services for the **Lump Sum Amount** of _____ and not to exceed the amounts set forth in the attached Hours and Fee Schedule for Basic Compensation.

2. Compensation for Additional Services.

For Additional Services of the Engineer and its Consultants, compensation shall be computed on the basis of a lump sum amount or on hourly rates and Reimbursable Expenses enumerated in this exhibit, subject to mutual agreement on a not-to-exceed amount for the Additional Services.

3. Progress Payments.

Progress payments shall be made monthly based upon the actual cost incurred to date for Services accepted by Owner, less the sum of previous payments paid. Engineer shall submit detailed statements to Owner on the first day of each month and Owner shall pay each approved invoice within thirty (30) calendar days after receipt of the Engineer's itemized statement. Statements shall refer to this Agreement by its Purchase Order indicated at the top of the first page hereof, shall display the original Cost of Services and shall include complete documentation of all charges. Authorized Reimbursable Expenses shall be indicated separately and shall be invoiced at their actual cost plus ten percent (10%) for Engineer's services, processing and checking all such reimbursable expenses, together with original receipts or other documentation to substantiate expenditures. No mark-up is allowed on the Engineer's in-house reimbursable expenses. Authorized Charges for Additional Services, if any, shall be indicated separately from charges for Basic Services. All statements shall be addressed to:

**City of Burbank
Attention: Greg Herrmann, Community Development Director
275 E Olive Avenue
P.O. Box 6459
Burbank, CA 91510-6459**

4. Final Payment.

Final Payment to the Engineer shall be made within sixty (60) calendar days after Engineer's written demand provided Engineer has completed the Services described by

the Agreement, and has delivered to Owner the updated Construction Documents, a Conditional Waiver and Release Upon Final Payment, a Declaration to Procure Payment and Release of Contract Rights, and any other Certificates and documentation reasonably required by Owner.

5. Hourly Rates

Engineer's Hourly rates are inclusive of all profit, overhead, taxes, vacation, benefits and all other costs. The above listed Hourly Rates shall be used in the event the Engineer's Scope of Services is modified. These Hourly Rates shall remain in effect throughout the Project's duration.

B. Engineer shall provide as an attachment herein to the Exhibit, hourly rates of all its Consultants to be employed on this Project for the City's review and acceptance prior to the City's execution of this Agreement. The City recognizes receipt of Consultant's Standard Hourly Billing Rates for the Period January 2008 through December 2008 as part of Consultant's Proposal for Construction Documents Design Services and Construction Administration. Notwithstanding this information, the City may, at its option, negotiate subsequent design services with Consultant either on a Time and Materials Basis or Lump Sum Basis and that the hourly rate information as provided herein may be used as a guide to such potential additional services.

6. Reimbursable Expenses.

In no event shall such Reimbursable Expenses exceed five hundred dollars (\$500) without Owner's prior written approval in accordance with Article 4 "Additional Services" herein. Engineer shall not be entitled to reimbursable expenses for telephone, facsimile, internet and data processing costs, and mileage to and from Owner offices and construction site, and entertainment. Engineer shall obtain Owner's prior written approval for reimbursement of:

- 1) expedited delivery charges not due to delay by Engineer;
- 2) extraordinary or out-of-town travel expenses;
- 3) document reproduction costs in excess of \$250; and
- 4) any individual cost, fee or expense in excess of \$500.